

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 21-cv-10719

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XXXXXXXXXXXXXXXXXXXXXXXXXXXX

[Redacted]

UNCLASSIFIED

FEDERAL BUREAU OF INVESTIGATION

Electronic Communication

Title: (U) Two search warrants obtained and served

Date: 10/26/2015

From: [Redacted]

Contact: [Redacted]

Approved By: [Redacted]

Drafted By: [Redacted]

Case ID #: [Redacted]

(U) [Redacted]
Fugitive (A);
UFAP - Murder

b6 -1,3
b7C -1,3
b7E -2,3,6

Synopsis: (U) To document two search warrants obtained

Full Investigation Initiated: 10/22/2015

Enclosure(s): Enclosed are the following items:

- 1. (U) Initial target phone SW
- 2. (U) [Redacted]

b3 -1
b6 -1,2
b7C -1,2
b7E -1

Details:

During the initial efforts to locate the captioned fugitive, it was learned, through historical records analysis and through information obtained from [Redacted] that the captioned fugitive was using [Redacted]

As a result, on 10/21/2015, [Redacted] obtained and served one search warrant on [Redacted] for the target number. Based on a historical analysis of the records obtained, the target number was confirmed to be used by the captioned fugitive (based on the identification of key individuals the target phone was calling). Due to the search warrant, [Redacted] activated the [Redacted] based services and the cell phone consistently was located in the [Redacted] [Redacted] area with a statistical error [Redacted]

UNCLASSIFIED

[REDACTED]

b7E -6

UNCLASSIFIED

Title: (U) Two search warrants obtained and served

Re: [REDACTED] 10/26/2015

b7E -6

[REDACTED] (approximately). Surveillance efforts were made on 10/22/2015 to locate the fugitive within these ranges without success.

b3 -1
b7E -1

Due to the inability to precisely [REDACTED] additional search warrant was obtained on 10/23/2015 [REDACTED]

[REDACTED] In addition to the search warrant, a non-disclosure agreement was also executed with the [REDACTED]

b3 -1
b7E -1

[REDACTED] and [REDACTED]

[REDACTED] (See attached in the 1A section of the file).

With all the approvals in place on 10/23/2015, [REDACTED] resources were scheduled for 10/26/2015. However, On 10/24/2015, the fugitive discontinued use of this [REDACTED].

b3 -1
b6 -2
b7C -2
b7E -1

[REDACTED] intends to acquire additional search warrants to review records associated with [REDACTED] the fugitive's girlfriend, who is likely going to be in communication with the fugitive's [REDACTED]

[REDACTED] contact information is [REDACTED] and [REDACTED]

◆◆

UNCLASSIFIED

b3 -1
b6 -2
b7C -2
b7E -1

- Mail
 - Calendar
 - Contacts
 - Deleted Items (9)
 - Drafts
 - Inbox
 - Junk E-Mail
 - Sent Items
- Click to view all folders
- Manage Folders...

Reply
 Reply to All
 Forward
 Move
 Delete
 Block
 Close

Fwd: Fugitive case

[Redacted] (FBI)

You replied on 10/23/2015 3:43 PM.

Sent: Friday, October 23, 2015 3:40 PM

To: [Redacted] (FBI) [Redacted] (FBI)

Attachments: [Redacted] [Open as Web Page];

b3 -1
b6 -1
b7C -1
b7E -1

Fyi

----- Original message -----

From: [Redacted]

Date: 10/23/2015 3:37 PM (GMT-08:00)

To: [Redacted]

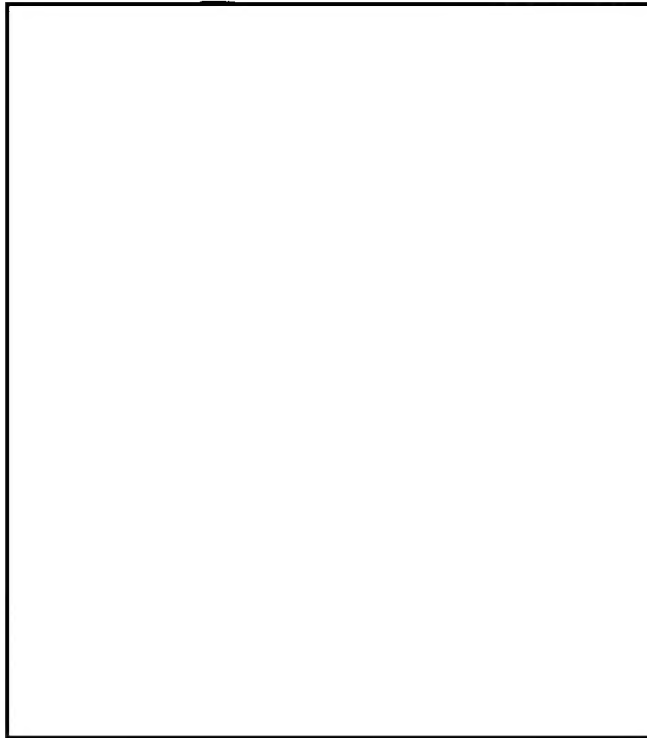
Cc: [Redacted]

Subject: FW: Fugitive case

b3 -1
b6 -1,2
b7C -1,2
b7E -1,2

To Whom It May Concern:

I [Redacted] am authorized by [Redacted] to review the attached notification and to acknowledge the receipt of the non-disclosure notification. I am also authorized to sign the agreement on his behalf. Due to the urgency of this matter, you have agreed to receive this email notification in lieu of wet signature so as to start the process of providing [Redacted] I have reviewed the notice and agree to its provisions on a renewable annual basis. A conformed copy with signature will follow. Please feel free to call me should you have any questions at [Redacted] Thank you.



b3 -1
b6 -2
b7C -2
b7E -1

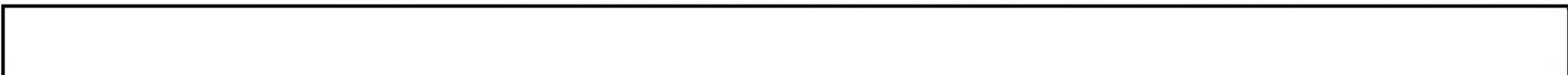
NOTICE: This communication is intended for the use of the individual or entity to which it is addressed and may contain attorney/client information and/or work product information that are privileged, confidential and exempt from disclosure under applicable law. If the reader of this communication is not the intended recipient or the employee or agent responsible for delivering this communication to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by reply email or by telephone and immediately delete this communication and all attachments.

From: [redacted]
Sent: Friday, October 23, 2015 1:42 PM
To: [redacted]
Subject: FW: Fugitive case

b6 -2
b7C -2
b7E -1

[redacted] is out sick today. [redacted] sent this to [redacted] to look over but she is out of the office today. [redacted] just wanted to make sure everything looked ok on the attached document before [redacted] signed off on it. Do you mind looking it over? [redacted]

b7E -2 21-cv-10719(FBI)-13



From: [redacted] (FBI) [mailto:[redacted]]
Sent: Friday, October 23, 2015 1:26 PM
To: [redacted]
Subject: FW: Fugitive case

b6 -1
b7C -1
b7E -2

Thank you

From: [redacted] (FBI)
Sent: Friday, October 23, 2015 9:33 AM
To: [redacted]
Subject: Fugitive case

b6 -1,2
b7C -1,2

[redacted]

b3 -1
b7E -1

I am sorry to email you while you are out of the office, however, there is a pressing matter regarding a [redacted] related to a [redacted] that occurred in [redacted] earlier this month. The [redacted] has narrowed the search for the fugitive to an large area and needs FBI assistance in further locating the subject. An arrest warrant was issued on October 16, 2015.

I know your office is currently reviewing both of the documents I have sent you but If you can review the following notification and request the DA to acknowledge the receipt of the non-disclosure notification, we can start the process to provide assistance to locate in this instance.

Thank you and I look forward to hearing from you soon. If you have any questions, please feel free to call me on my cell [redacted]

b6 -1
b7C -1
b7E -2

[redacted]



Connected to Microsoft Exchange

[redacted]

- Mail
 - Calendar
 - Contacts
 - Deleted Items (9)
 - Drafts
 - Inbox
 - Junk E-Mail
 - Sent Items
- Click to view all folders
- Manage Folders...

Reply
 Reply to All
 Forward
 Move
 Delete
 Junk
 Close

Fwd: [redacted]

[redacted]

b6 -1,2,3
b7C -1,2,3

Sent: Friday, October 23, 2015 4:17 PM

To: [redacted] (FBI)

Here you [redacted]

[redacted]

----- Original message -----

From: [redacted]

Date: 10/23/2015 4:12 PM (GMT-08:00)

To: [redacted]

Cc: [redacted]

Subject: Fwd: [redacted] (A)

b6 -2,3
b7C -2,3

Sent from [redacted]

Begin forwarded message:

From: [redacted]

Date: October 23, 2015 at 4:10:13 PM PDT

To: [redacted]

Subject: Re: [redacted] (A)

b3 -1
b6 -2,3
b7C -2,3
b7E -1

This request is approved.

[redacted]

Sent from [redacted]

On Oct 23, 2015, at 4:03 PM [redacted] wrote:

Can I get an approval on this. It's an MOU mechanism. I sent this earlier. Having issues with Mail on the phone.

b7E -2

[redacted]

Sent from [redacted]

Begin forwarded message:

From: [redacted]
Date: October 23, 2015 at 10:40:30 AM PDT
To: [redacted]
Subject: Fwd [redacted]

b6 -2,3
b7C -2,3

Here you go [redacted] Thanks

Sent from m [redacted]

----- Original message -----
From: [redacted] (FBI)" [redacted]
Date: 10/22/2015 3:02 PM (GMT-08:00)
To: [redacted]
Cc: [redacted]
Subject: [redacted]

b6 -1,2,3
b7C -1,2,3
b7E -2

Below is a non-disclosure agreement (NDA) for use of the cell site simulator in the above case. An executive within the [redacted] must reply from their official email (to [redacted]) that they concur with the terms in order for [redacted] case.

b3 -1
b6 -2
b7C -2
b7E -1

The FBI has received a request for technical support from [redacted] [redacted] Specifically, locating a cellular device through the use of law enforcement sensitive (LES) FBI investigative equipment in the above referenced case (as noted in the e-mail subject line). The equipment to be deployed is considered LES as disclosure of the capabilities of this technology may allow future subjects of investigations to employ countermeasures to avoid detection by law enforcement. The FBI recognizes that, due to the exigent circumstances in your case, there is not sufficient time to execute a formal, written non-disclosure agreement regarding the use of this equipment. Acceptance of the FBI's assistance in [redacted] in the above referenced case constitutes your agency's agreement to the following provisions:

- The requested assistance is to be used in the lawful execution of an authorized function of the requesting agency.

b7E -2

[redacted]

• The assistance shall not be used outside of the jurisdiction of the requesting agency, nor beyond the geographical authority of the order or other legal process except as otherwise permitted by law (e.g., "hot pursuit."); and, in no event shall technical assistance pursuant to this request be used outside the United States.

• The Touhy process set forth at 28 C.F.R. 16.22, 16.24, and 16.26 will apply to any demand for testimony of any FBI personnel relating to the use of the equipment. The FBI will use all appropriate legal means to limit testimony regarding the technology in any state or local proceeding. However, if required by state law as part of the criminal trial or discovery process, this email constitutes [redacted]

[redacted]

[redacted]

• [redacted]

[redacted]

[redacted] agency understands it is required to use additional and independent investigative means and methods, such as [redacted] that would be admissible at trial to corroborate information concerning the location of the target obtained through use of this equipment.

• The FBI must be contacted immediately if there is any request for, or intent to use publicly, any information relating to the assistance provided.

• The requesting agency acknowledges that any assistance provided is subject to the needs of the FBI and such assistance may be terminated at the discretion of the FBI.

b7E -1

Thank you,



cell
desk

b6 -1
b7C -1



Connected to Microsoft Exchange

- Deleted Items (9)
- Drafts
- Inbox
- Junk E-Mail
- Sent Items

Copy Reply to All Forward Move Delete Link Use

Fwd [redacted] Approval [redacted]

b6 -1
b7C -1
b7E -3

[redacted] (FBI)

Sent: Friday, October 23, 2015 4:11 PM

To: [redacted] (FBI)

Fyi

-

Click to view all folders

Manage Folders...

----- Original message -----

From: [redacted] (FBI)" [redacted]

b6 -1
b7C -1
b7E -2,3

Date: 10/23/2015 16:10 (GMT-08:00)

To: [redacted] (FBI)" [redacted] (LA) (FBI)" [redacted]

Subject: RE: [redacted] Approval [redacted]

I concur.

-

----- Original message -----

From: [redacted] (FBI)" [redacted]

b6 -1
b7C -1
b7E -2

Date: 23/10/2015 4:09 PM (GMT-08:00)

To: [redacted] (FBI)" [redacted] (FBI)" [redacted]

Subject: RE: [redacted] Approval [redacted]

I concur pending [redacted] approval

-

----- Original message -----

From: [redacted] (FBI)" [redacted]

b6 -1
b7C -1
b7E -2,3

Date: 10/23/2015 4:08 PM (GMT-08:00)

To: [redacted] (FBI)" [redacted]

Subject: Fwd: [redacted] Approval [redacted]

[redacted]

Per our conversation yesterday, we are now seeking [redacted] authority to find fugitive.. phone still out in [redacted] but we're only [redacted] Thanks..

-

----- Original message -----

From: [redacted] (FBI)" [redacted] >
Date: 10/23/2015 16:04
To: [redacted] (FBI)" [redacted]
Subject: [redacted] Approval - [redacted]

b6 -1
b7C -1
b7E -2,3

[redacted]

Seeking [redacted] approval for use of [redacted] early next week. Today (10/23/2015) we obtained a search warrant per the new DOJ policy with the appropriate language (reviewed by [redacted] and we also obtained the approval of the [redacted] regarding the Non Disclosure Agreement for the use of this LES equipment on a case involving a [redacted]. The [redacted] has been provided the same Non-disclosure agreement and they are anticipated to agree to the terms as they have done several times in the past. (The RSO executive manager will send their approval email when available in the near future).

For reference [redacted] is attempting to locate and apprehend fugitive [redacted] wanted for an [redacted] is currently hiding in the [redacted] area and the use of the [redacted] [redacted] is necessary to locate his whereabouts.

b6 -1,2,3
b7C -1,2,3
b7E -2,3

Please advise if approved to [redacted] so scheduling of [redacted] can move forward.

Thank you.

[redacted]



Connected to Microsoft Exchange

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 21-cv-10719

Total Deleted Page(s) = 1
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X Deleted Page(s) X
X No Duplication Fee X
X For this Page X
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UNCLASSIFIED

FEDERAL BUREAU OF INVESTIGATION
Electronic Communication

Title: (U) Open Preliminary Investigation on [redacted]

Date: 05/14/2020

CC: [redacted]

From: [redacted]

Contact: [redacted]

b6 -1,3
b7C -1,3
b7E -2,6

Approved By: [redacted]

Drafted By: [redacted]

Case ID #: [redacted]

(U) [redacted]
[redacted]
"PRELIMINARY INVESTIGATION"

IDENTITY INFORMATION

b7E -1

This document contains information regarding a [redacted] identity, which may only be disclosed to individuals who have a need-to-know such information by reason of their participation in the associated proceeding, or if disclosure is necessary to protect the [redacted]

[redacted]

Synopsis: (U) To open Preliminary Investigation on [redacted]

[redacted]

Enclosure(s): Enclosed are the following items:

- 1. (U) [redacted] Arrest_Warrant_ [redacted]
- 2. (U) [redacted]
- 3. (U) Mugshot - [redacted] photo_date [redacted]
- 4. (U) PEN, PING, [redacted] Warrant for [redacted]
- 5. (U) [redacted] - Prosecutor NDA Email
- 6. (U) [redacted] - Requesting Agency NDA Email

b3 -2
b6 -2
b7C -2

Details:

UNCLASSIFIED

IT IS HEREBY ORDERED that [redacted] (or any telecommunication company associated with the target telephone number) is compensated for reasonable expenses incurred while complying with the warrant.

b3 -2
b7E -1

IT IS HEREBY ORDERED that that [redacted] and any other affected telecommunication companies, subsidiaries, or entities, whether mentioned herein or not, (hereinafter referred to as the Telecommunications Companies) shall supply any and all information in their files with respect to persons called by the [redacted] and for [redacted], whether published, or non-published, [redacted]

call progress locations (Automated Message Accounting Data), raw data information, subscriber names and addresses, credit information, application information, toll records (to included all outgoing and incoming calls), text messages [redacted], and billing information and unbilled records, other names or phone numbers associated with the account, upon oral or written demand of the [redacted]

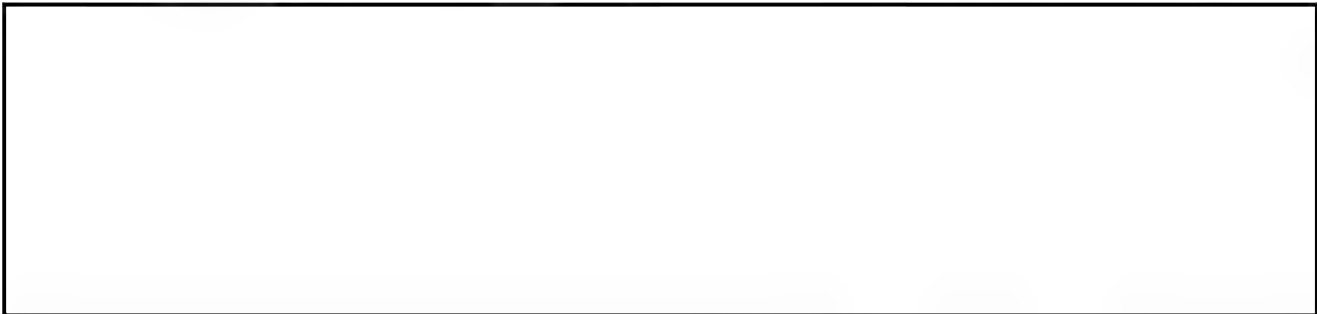
IT IS HEREBY ORDERED that the Telecommunication Company show [redacted]

[redacted] Trap and Trace throughout the duration of the court order. It is also ordered that the Telecommunication Company supply any and all saved or unsaved messages, recorded voice mail content, text message content to the investigating officer as requested, throughout the duration of the warrant. IT IS HEREBY ORDERED that this order by the court and that the telecommunications companies shall not disclose the existence of the pen register, the trap and trace device or the existence of the investigation to the listed subscriber or to any other person, unless or until otherwise order by the court.

b3 -1,2
b6 -2
b7C -2
b7E -1

AND

- 1) INVESTIGATORS ARE HEREBY AUTHORIZED TO UTILIZE A DEVICE COMMONLY REFERRED TO AS A [redacted] AND/OR RELATED DEVICES.



From: [redacted] (DA)
To: [redacted] (FBI)
Cc:
Subject: Re: [redacted] Sheriff Fugitive - [redacted]
Date: Thursday, May 14, 2020 1:41:29 PM

b6 -1,2,3
b7C -1,2,3

Acknowledged

Please excuse any misspellings
Sent from my iPhone

On May 14, 2020, at 12:52 PM, [redacted] (FBI) [redacted] wrote:

[redacted] and [redacted]

b6 -1,2
b7C -1,2
b7E -2

Please see the NDA language in blue below and acknowledge by responding to this email:

RE: Fugitive [redacted]

(U//~~FOUO~~) The FBI has received a request for technical support from your agency—specifically, [redacted]

b6 -3
b7C -3
b7E -1

(U//~~FOUO~~) The equipment to be deployed is considered LES, as disclosure of the capabilities of this technology may allow future subjects of investigations to employ countermeasures to avoid detection by law enforcement.

(U//~~FOUO~~) The FBI recognizes that, due to the exigent circumstances in your case, there is not sufficient time to execute a formal, written nondisclosure agreement regarding the use of this equipment.

(U//~~FOUO~~) Acceptance of the FBI's assistance in locating a cellular device in the above- referenced case constitutes your agency's understanding and agreement to the following provisions:

- (U//~~FOUO~~) The FBI's equipment is to be used in the lawful execution of an authorized function of the requesting agency.*
- (U//~~FOUO~~) The equipment shall not be used outside of the jurisdiction of the requesting agency nor beyond the geographical authority of the order or other legal process except as otherwise permitted by law (e.g., "hot pursuit"); and, in no event shall technical assistance pursuant to this request be used outside the United States.*
- (U//~~FOUO~~) The FBI must be contacted immediately if there is any request for, or intent to use publicly, any information relating to the assistance provided pursuant to this request.*
- (U//~~FOUO~~) The Touhy process set forth at 28 CFR 16.22, 16.24, and 16.26 will*

apply to any demand for testimony of any FBI personnel relating to the use of the equipment. The FBI will use all appropriate legal means to limit testimony regarding the technology in any state or local proceeding. However, if required by state law as part of the criminal trial or discovery process, this e-mail constitutes the FBI's approval for your agency [or the prosecutor's office] to disclose the fact that general location information about a cellular device was obtained through the use of FBI equipment.

** (U//~~FOUO~~) Information obtained through use of the equipment is FOR LEAD PURPOSES ONLY and may not be used as primary evidence in any affidavits, hearings, or trials.*

[Redacted]

b7E -1

concerning the location of the target obtained through use of this equipment.

** (U//~~FOUO~~) The requesting agency acknowledges that any assistance provided is subject to the needs of the FBI, and such assistance may be terminated at the discretion of the FBI.*

[Redacted]

[Redacted] office
[Redacted] cell
[Redacted]

b6 -1
b7C -1
b7E -2

[Redacted] EMAIL DISCLAIMER: This email and any attachments thereto may contain private, confidential, and privileged material for the sole use of the intended recipient. Any review, copying, or distribution of this email (or any attachments thereto) by other than the [Redacted] or the intended recipient is strictly prohibited. If you are not the intended recipient, please contact the sender immediately and permanently delete the original and any copies of this email and any attachments thereto.

From: [redacted]
To: [redacted] (FBI); [redacted]
Subject: RE: [redacted] Sheriff Fugitive - [redacted]
Date: Thursday, May 14, 2020 12:55:21 PM
Attachments: [redacted]

[redacted]

I acknowledge the information below.

b3 -1
b6 -1,2,3
b7C -1,2,3
b7E -1,2

[redacted]

From: [redacted] (FBI) [mailto:[redacted]]
Sent: Thursday, May 14, 2020 12:53 PM
To: [redacted]
Subject: [redacted] Sheriff Fugitive - [redacted]

b6 -1,2,3
b7C -1,2,3
b7E -2

[redacted] and Sgt. [redacted]

Please see the NDA language in blue below and acknowledge by responding to this email:

RE: Fugitive [redacted]

b6 -2
b7C -2
b7E -1

(U//~~FOUO~~) The FBI has received a request for technical support from your agency-- specifically, [redacted]

(U//~~FOUO~~) The equipment to be deployed is considered LES, as disclosure of the capabilities of this technology may allow future subjects of investigations to employ countermeasures to avoid detection by law enforcement.

(U//~~FOUO~~) The FBI recognizes that, due to the exigent circumstances in your case, there is not sufficient time to execute a formal, written nondisclosure agreement regarding the use of this equipment.

(U//~~FOUO~~) Acceptance of the FBI's assistance in locating a cellular device in the above-referenced case constitutes your agency's understanding and agreement to the following provisions:

- (U//~~FOUO~~) The FBI's equipment is to be used in the lawful execution of an authorized function of the requesting agency.*
- (U//~~FOUO~~) The equipment shall not be used outside of the jurisdiction of the requesting agency nor beyond the geographical authority of the order or other legal process except as otherwise permitted by law (e.g., "hot pursuit"); and, in no event shall technical assistance pursuant to this request be used outside the United States.*
- (U//~~FOUO~~) The FBI must be contacted immediately if there is any request for, or intent to use publicly, any information relating to the assistance provided pursuant to this request.*
- (U//~~FOUO~~) The Touhy process set forth at 28 CFR 16.22, 16.24, and 16.26 will apply to any demand for testimony of any FBI personnel relating to the use of the equipment. The FBI will use all appropriate legal means to limit testimony regarding the technology in any state or local proceeding. However, if required by state law as part of the criminal trial or discovery process, this e-mail constitutes the FBI's approval for your agency [or the prosecutor's office] to disclose the fact that general location information about a cellular device was obtained through the use of FBI equipment.*

• (U//~~FOUO~~) [REDACTED]

[REDACTED] and your agency understands it is required to use additional and independent investigative means and methods, such as [REDACTED] that would be admissible at trial to corroborate information concerning the location of the target obtained through use of this equipment.

- (U//~~FOUO~~) The requesting agency acknowledges that any assistance provided is subject to the needs of the FBI, and such assistance may be terminated at the discretion of the FBI.*

[REDACTED]

[REDACTED] office
[REDACTED] cell
[REDACTED]

b7E -1

b6 -1
b7C -1
b7E -2

[Redacted]

UNCLASSIFIED

FEDERAL BUREAU OF INVESTIGATION

Import Form

Form Type: EMAIL

Date: 12/18/2015

Title: (U) [Redacted] Email reference added language in Telephone Orders

Approved By: [Redacted]

b6 -1
b7C -1
b7E -1,6

Drafted By: [Redacted]

Case ID #: [Redacted]

Synopsis: (U) [Redacted] Email reference new language in [Redacted]
[Redacted] The order/affidavit, with the inclusion of the "Manner of Execution" language, sufficiently complies with the new DOJ policy to authorize the use of the cell-site simulator to identify [Redacted] of a known [Redacted].

◆◆

UNCLASSIFIED

[Redacted]

(FBI)

From: [Redacted] (FBI)
Sent: Friday, October 23, 2015 11:48 AM
To: [Redacted] (FBI)
Subject: FW: [Redacted] Fugitive warrant

b6 -1,3
b7C -1,3

We should be good to go. [Redacted] copied [Redacted] so he's aware.

From: [Redacted] (FBI)
Sent: Thursday, October 22, 2015 1:20 PM
To: [Redacted] (FBI)
Cc: [Redacted] (FBI)
Subject: RE: [Redacted] Fugitive warrant

b5 -2
b7E -1

[Redacted]

[Large Redacted Block]

[Redacted]

From: [Redacted] (FBI)
Sent: Tuesday, October 20, 2015 4:01 PM
To: [Redacted] (FBI)
Cc: [Redacted] (FBI)
Subject: FW: [Redacted] Fugitive warrant

b6 -1,2,3
b7C -1,2,3

[Redacted]

Attached is an affidavit and order from [Redacted] We worked with [Redacted] and he added the "Manner of Execution" language. It appears all the other relevant info is in the order and affidavit, please take a look and let me know your thoughts. Thanks.

[Redacted]

From: [Redacted] (FBI)
Sent: Tuesday, October 20, 2015 2:02 PM
To: [Redacted] (FBI)
Subject: Fwd [Redacted] - Fugitive warrant

b6 -1,2
b7C -1,2

Pls review

[Redacted]

[Redacted]

UNCLASSIFIED

FEDERAL BUREAU OF INVESTIGATION
Electronic Communication

Title: (U) Opening Communication

Date: 05/20/2020

From: [Redacted]

Contact: [Redacted]

b3 -1
b6 -1
b7C -1
b7E -1, 2,6

Approved By: [Redacted]

Drafted By: [Redacted]

Case ID #: [Redacted]

(U) [Redacted] - Subject;
Domestic Technical Assistance to [Redacted]
[Redacted]

Synopsis: (U) Opening Communication

Reference: [Redacted]

b7E -3,6

Enclosure(s): Enclosed are the following items:

1. (U) Request for Assistance from [Redacted] Office
2. (U) Nondisclosure Agreements
3. (U) Approvals from [Redacted] Division CDC
4. (U) Approvals from [Redacted] Division CDC
5. (U) Final Approved State Search Warrant.

b3 -1
b7E -1

Details:

On [Redacted] -

[Redacted] requested Federal Bureau of Investigation (FBI) assistance with [Redacted] date of birth (DOB) [Redacted] a FBI Task Force Officer and [Redacted]

b3 -1
b6 -2
b7C -2
b7E -1

[Redacted] advised the FBI that [Redacted] was wanted in connection with the [Redacted] of a [Redacted] year-old-female in the City of [Redacted]. The victim and witnesses were able to give a description of the suspect, and the City of

UNCLASSIFIED

[REDACTED]

UNCLASSIFIED

b7E -6

Title: (U) Opening Communication

Re: [REDACTED] 05/20/2020

[REDACTED] cameras caught the license plate of the suspect's vehicle. The vehicle registration led the police department to [REDACTED] [REDACTED] with the assistance of the [REDACTED] [REDACTED] wrote a search warrant for the suspect's house, vehicle, [REDACTED]

b3 -1
b6 -3
b7C -3
b7E -1

[REDACTED] but [REDACTED] A search of his residence was negative. They also got a search for [REDACTED] [REDACTED] however, there has been no recent activity.

[REDACTED] is a [REDACTED] gang member who the FBI had investigated in conjunction with the [REDACTED] is also known by the gang moniker [REDACTED]

[REDACTED] requested both domestic [REDACTED] as well as [REDACTED] analysis. A official agency request was submitted by [REDACTED] [REDACTED] and is included in the 1A section of this communication. All members of the prosecutorial and investigative team for the District Attorney's Office agreed to abide by the FBI's nondisclosure agreement (NDA) in relationship to usage of the cell site simulator. A state warrant was completed and approved by [REDACTED] [REDACTED] A copy of the emails containing the NDAs and the approved search warrant will also be included as part of the 1A section.

b3 -1
b6 -2
b7C -2
b7E -1

The following information and documentation was forwarded through the [REDACTED] chain of command and [REDACTED] approval was granted to provide assistance to [REDACTED] On [REDACTED] turned himself into the police before any assets were deployed [REDACTED]

◆◆

UNCLASSIFIED

[Redacted]

(IMD) (CON)

b3 -1
b6 -1
b7C -1
b7E -1

From: [Redacted] (FBI)
Sent: Thursday, May 7, 2020 1:04 PM
To: [Redacted] (FBI); [Redacted] (FBI)
Cc: [Redacted] (FBI)
Subject: Re: Domestic Technical Assistance to the [Redacted]

Legal approves pending review of the state search warrant. [Redacted] approval required for the opening of the [Redacted]
[Redacted]

[Redacted]

b6 -1
b7C -1
b7E -2

Desk [Redacted]
Galaxy [Redacted]

Confidentiality Statement: This message is transmitted to you by the Office of the [Redacted] for the [Redacted] of the FBI. The message, along with all attachments, may be confidential and legally privileged. If you are not the intended recipient, please destroy it promptly without further retention or dissemination. Please notify the sender of the error by a separate e-mail or by calling [Redacted]. This message and its attachments belong to the FBI and may not be further disseminated without prior FBI [Redacted] approval.

From: [Redacted] (FBI); [Redacted]
Sent: Thursday, May 7, 2020 10:00 AM
To: [Redacted] (FBI); [Redacted]
Cc: [Redacted] (FBI); [Redacted] (FBI); [Redacted]
[Redacted] (FBI); [Redacted]
Subject: Domestic Technical Assistance to th [Redacted]

b3 -1
b6 -1,3
b7C -1,3
b7E -1,2

All,
The [Redacted] requested domestic technical assistance in the form of the FBI's cell site simulator in the case of [Redacted]
[Redacted]

By way of background, on [Redacted] at approximately [Redacted] year-old-female was [Redacted] and [Redacted] by a stranger on [Redacted] in [Redacted] California. She and witnesses were able to give a description, and City of [Redacted] cameras caught the license plate of the suspect's vehicle. The vehicle registration led the [Redacted] to the suspect, [Redacted]

with the assistance of the [redacted] [redacted] wrote a search warrant for the suspect's house, vehicle, call detail records as well as requested a [redacted] but the [redacted] [redacted] A search of his residence was negative. They have also gotten search warrants for a [redacted] on the suspect's [redacted] [redacted] however, there has been no recent activity.

b3 -1
b7E -1,3

The [redacted] has requested the FBI's assistance in using the [redacted] to help provide a more specific location for the phone in [redacted] I believe with the combined assistance of the [redacted] [redacted] and the [redacted] that we might be able to narrow [redacted]

Currently, we have completed the following steps required for deployment of the CSS per the guidance of the CDC:

1. Attached is an official request from the [redacted] [redacted] signed by [redacted]
2. The [redacted] team assigned to this matter as well as the assigned [redacted] [redacted]
3. A state search warrant has been drafted and is being reviewed by [redacted] [redacted]. The [redacted] and [redacted] have been advised of the situation, all actions currently taken, and will approve subject to the state search warrant meeting all necessary FBI requirements.

b3 -1
b6 -1,2
b7C -1,2
b7E -1

I am respectfully requesting the opening of a [redacted] case in this matter. I am seeking [redacted] approval to [redacted] search warrant by the [redacted] office.

Respectfully,

[redacted signature block]

b6 -1
b7C -1
b7E -2,3

The [redacted] form is available on fbi.gov

[redacted]

[Redacted] (IMD) (CON)

From: [Redacted] (FBI) b3 -1
Sent: Thursday, May 7, 2020 1:49 PM b6 -1
To: [Redacted] (FBI); [Redacted] (FBI) b7C -1
Cc: [Redacted] (FBI); [Redacted] (FBI) b7E -1
Subject: Re: Domestic Technical Assistance to the [Redacted]

All,

A have reviewed the state SW and it complies with DOJ requirements and I approve moving forward. This is a serious crime and a good use of our assistance abilities. Please reach out to me if you have any other questions or concerns.

[Redacted]

[Redacted]

Desk: [Redacted]
Mobil: [Redacted]

b3 -1
b6 -1
b7C -1
b7E -1,2

From: [Redacted] (FBI) [Redacted]
Sent: Thursday, May 7, 2020 10:41 AM
To: [Redacted] (FBI) [Redacted]
Cc: [Redacted] (FBI) [Redacted] (FBI) [Redacted]
[Redacted] (FBI) [Redacted]
Subject: RE: Domestic Technical Assistance to the [Redacted]

[Redacted]

As discussed yesterday, this is a request to open a [Redacted] assistance case to provide technical assistance to [Redacted]. The formal request letter is attached for [Redacted] review. [Redacted] level approval has been granted. [Redacted] approval is pending while [Redacted] reviews the State search warrant. Once [Redacted] completes his review, [Redacted] level approvals are needed.

Thank you,

[Redacted]

b3 -1
b6 -1
b7C -1
b7E -1,2

From: [Redacted] (FBI) [Redacted]
Sent: Thursday, May 7, 2020 10:04 AM
To: [Redacted] (FBI) [Redacted] (FBI) [Redacted]
Cc: [Redacted] (FBI) [Redacted]
Subject: Re: Domestic Technical Assistance to the [Redacted]

Legal approves pending review of the state search warrant [redacted] approval required for the opening of the [redacted]

[redacted]

[redacted]

b6 -1
b7C -1
b7E -2

Desk [redacted]
Galaxy [redacted]

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From: [redacted] (FBI) [redacted]
Sent: Thursday, May 7, 2020 10:00 AM
To: [redacted] (FBI) [redacted]
Cc: [redacted] (FBI) [redacted] (FBI) [redacted]
[redacted] (FBI) [redacted]

Subject: Domestic Technical Assistance to the [redacted]

b3 -1
b6 -1,3
b7C -1,3
b7E -1,2,3

All,

The [redacted] Office requested domestic technical assistance in the form of the FBI's cell site simulator in the case of [redacted]

By way of background, on [redacted] at approximately [redacted] year-old-female was [redacted] and [redacted] by a stranger on [redacted] in [redacted] California. She and witnesses were able to give a description, and City of [redacted] cameras caught the license plate of the suspect's vehicle. The vehicle registration led the [redacted] the suspect. [redacted] with the assistance of the [redacted] [redacted] wrote a search warrant for the suspect's house, vehicle, call detail records as well as requested a [redacted]

[redacted]. A search of his residence was negative. They have also gotten search warrants for a [redacted] [redacted] however, there has been no recent activity.

The [redacted] has requested the FBI's assistance in using the [redacted] [redacted] I believe with the combined assistance of the [redacted]

[redacted] and the [redacted] that we might be able to narrow down the location of the suspect's phone.

Currently, we have completed the following steps required for deployment of the CSS per the guidance of the CDC:

1. Attached is an official request from the [redacted] signed by [redacted]
2. The [redacted] team assigned to this matter as well as the assigned [redacted] [redacted] have read and acknowledged the [redacted] All e-mails containing their acknowledgements will be documented to the case file.
3. A state search warrant has been drafted and is being reviewed by [redacted] [redacted] The [redacted] and [redacted] have been advised of the situation, all actions currently taken, and will approve subject to the state search warrant meeting all necessary FBI requirements.

I am respectfully requesting the opening of a [redacted] base in this matter. I am seeking [redacted] search warrant by the [redacted] office.

Respectfully,

[redacted signature block]

[redacted] (desk)

The [redacted] form is available on fbi.gov

[redacted]

b3 -1
b6 -1,2
b7C -1,2
b7E -1,2,3

[Redacted]

[Redacted]

[Redacted]

b3 -1
b6 -1
b7C -1
b7E -1

b6 -3
b7C -3

RE: [Redacted]

Dear [Redacted]

[Redacted] is requesting the technical assistance from the Federal Bureau of Investigation in the form of their Cell Site Simulator. On Monday, [Redacted] at [Redacted] year-old female was [Redacted] and [Redacted] by [Redacted] [Redacted] Victim was [Redacted] and required extensive medical attention as she suffered great bodily injury. Victim and witnesses provided a description, and [Redacted] city cameras caught the license plate of [Redacted] vehicle. [Redacted] was positively identified by the victim.

b3 -1
b6 -3
b7C -3
b7E -1

The vehicle registration led to Suspect [Redacted] Per [Redacted] family members, his phone number is [Redacted]. A search warrant for [Redacted] residence, vehicle [Redacted]

b6 -3
b7C -3
b7E -1

[Redacted] The [Redacted] but the [Redacted]

[Redacted] residence was searched and unfortunately, he was not located. [Redacted] had texted a cousin, who was inside the residence at the time of the search warrant, and while investigators were at the scene, [Redacted] cellular telephone number was confirmed. Furthermore [Redacted] is suspected of three other homicides in [Redacted] and is currently believed to be armed and considered dangerous.

b6 -2,3
b7C -2,3

Sincerely

[Redacted Signature]

Bureau of Investigations

b3 -1
b7E -1

[Redacted]

[redacted] (IMD) (CON)

From:

[redacted]

Sent:

Thursday, May 7, 2020 10:32 AM

To:

Cc:

[redacted]

Subject:

Re: CSS Non Disclosure Agreement

Acknowledged

b6 -1,2
b7C -1,2
b7E -2

Thank you.

[redacted]

On May 7, 2020, at 5:41 AM, [redacted] (FBI) [redacted] wrote:

b6 -1,2
b7C -1,2
b7E -2

[redacted]

All,

The following is the FBI's Non Disclosure Agreement in relationship to use of the Cell Site Simulator. Please review the document and let me know if you have any questions. If you understand and agree to the non-disclosure agreement, please respond to this email with a simple acknowledgment.

Thanks,

[redacted]

b6 -1
b7C -1
b7E -2

[redacted] (desk)

<CSS Non Disclosure Agreement.docx>

[redacted] (IMD) (CON)

From: [redacted]
Sent: Thursday, May 7, 2020 10:06 AM
To: [redacted]
Subject: Re: CSS Non Disclosure Agreement

b3 -1
b6 -1,2
b7C -1,2
b7E -1,2

Acknowledged. Thank you.

[redacted]

From: [redacted] (FBI) [redacted]
Sent: Thursday, May 7, 2020 5:41:02 AM
To: [redacted]

b6 -1,2
b7C -1,2
b7E -2

Subject: CSS Non Disclosure Agreement

[redacted]

All,

The following is the FBI's Non Disclosure Agreement in relationship to use of the Cell Site Simulator. Please review the document and let me know if you have any questions. If you understand and agree to the non-disclosure agreement, please respond to this email with a simple acknowledgment.

Thanks,

[redacted]

b6 -1
b7C -1
b7E -1,2

[redacted] desk)

[redacted] (IMD) (CON)

From:

[redacted]

Sent:

Thursday, May 7, 2020 10:29 AM

To:

[redacted] (FBI)

Cc:

[redacted]

Subject:

Re: CSS Non Disclosure Agreement

I acknowledge.

Thank you,

[redacted]

Sent from my iPhone

b6 -1,2
b7C -1,2
b7E -2

On May 7, 2020, at 5:41 AM,
wrote:

[redacted]

[redacted]

All,

The following is the FBI's Non Disclosure Agreement in relationship to use of the Cell Site Simulator. Please review the document and let me know if you have any questions. If you understand and agree to the non-disclosure agreement, please respond to this email with a simple acknowledgment.

Thanks,

[redacted]

b6 -1
b7C -1
b7E -2

[redacted] desk)

<CSS Non Disclosure Agreement.docx>

[redacted] IMD) (CON)

b6 -1,2
b7C -1,2
b7E -2

From: [redacted]
Sent: Thursday, May 7, 2020 11:00 AM
To: [redacted]
Subject: RE: CSS Non Disclosure Agreement

I acknowledge.

Respectfully,

[redacted]

b3 -1
b6 -2
b7C -2
b7E -1

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From: [redacted] (FBI [redacted])

Sent: Thursday, May 7, 2020 5:41 AM

To: [redacted]

b6 -1,2
b7C -1,2
b7E -2

Subject: CSS Non Disclosure Agreement

[redacted]

All,

The following is the FBI's Non Disclosure Agreement in relationship to use of the Cell Site Simulator. Please review the document and let me know if you have any questions. If you understand and agree to the non-disclosure agreement, please respond to this email with a simple acknowledgment.

Thanks,

[redacted]

b6 -1
b7C -1
b7E -1,2

[redacted] (desk)

[REDACTED] **IMD) (CON)**

From: [REDACTED]
Sent: Thursday, May 7, 2020 11:21 AM
To: [REDACTED] (FBI); [REDACTED]
Subject: Re: CSS Non Disclosure Agreement

b6 -1,2
b7C -1,2
b7E -2

Acknowledged

Sent via the [REDACTED] and [REDACTED]

.....
From: [REDACTED] b6 -1,2
Sent: Thursday, May 7, 2020 7:59:34 AM b7C -1,2
To: [REDACTED] (FBI); [REDACTED] b7E -2
[REDACTED]

Subject: RE: CSS Non Disclosure Agreement

I acknowledge.

Respectfully,

[REDACTED]

b3 -1
b6 -2
b7C -2
b7E -1

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.....
From: [REDACTED] b6 -1,2
Sent: Thursday, May 7, 2020 5:41 AM b7C -1,2
To: [REDACTED] b7E -2
[REDACTED]

Subject: CSS Non Disclosure Agreement

[REDACTED] b3 -1
b7E -1

All,

The following is the FBI's Non Disclosure Agreement in relationship to use of the Cell Site Simulator. Please review the document and let me know if you have any

questions. If you understand and agree to the non-disclosure agreement, please respond to this email with a simple acknowledgment.

Thanks,



 (desk)

b6 -1
b7C -1
b7E -2

[Redacted]

UNCLASSIFIED

FEDERAL BUREAU OF INVESTIGATION

Electronic Communication

Title: (U) Use of Cell Site Simulator

Date: 06/29/2017

From: [Redacted]

[Redacted]

Contact: [Redacted]

Approved By: SSA [Redacted]

b6 -1,2
b7C -1,2
b7E -1,2,6

Drafted By: [Redacted]

Case ID #: [Redacted]

(U) [Redacted]

[Redacted]

Synopsis: (U) Use of the Cell Site Simulator to identify and locate pertinent cellular telephones on 6/23/2017 and 6/28/2017

Full Investigation Initiated: 04/15/2017

Enclosure(s): Enclosed are the following items:

- 1. (U) [Redacted] NDA
- 2. (U) [Redacted] NDA
- 3. (U) Approval email
- 4. (U) Warrant

b3 -1
b7E -1

Details:

[Redacted]

b3 -1
b6 -1,2
b7C -1,2
b7E -1,3

On 6/23/2017, [Redacted] conducted sweeps at [Redacted]

[Redacted]

[Redacted] Although [Redacted]

[Redacted]

[Redacted]

UNCLASSIFIED

[REDACTED]

UNCLASSIFIED

b7E -6

Title: (U) Use of Cell Site Simulator

Re: [REDACTED] 06/29/2017

Through additional investigation, [REDACTED] was subsequently able to tentatively identify secondary cell phones for [REDACTED] as well as his associate, [REDACTED]. On 6/28/2017, [REDACTED] was deployed to

[REDACTED] residence at [REDACTED].
[REDACTED] At approximately 9:30 a.m., [REDACTED] possible secondary cell phone for [REDACTED].
[REDACTED] then traveled to [REDACTED] work site at [REDACTED] in another attempt to identify [REDACTED] observed [REDACTED] vehicle parked in front of the residence. At approximately 11:15 a.m. [REDACTED] determined that the only [REDACTED].
[REDACTED]
[REDACTED]

b3 -1
b6 -1,2,3
b7C -1,2,3
b7E -1,3

The results of the [REDACTED] survey were verbally passed to [REDACTED].
[REDACTED]
[REDACTED]

Both the [REDACTED] and the [REDACTED] [REDACTED] replied that they had received the Cell Site Simulator Non-Disclosure Letter. These emails are attached to this communication. Also attached is an email from [REDACTED] indicating [REDACTED] approval for this technique. The search warrant was reviewed by ACDC [REDACTED] prior to its signing by [REDACTED].
[REDACTED]

b3 -1
b6 -2
b7C -2
b7E -1,3

The [REDACTED] warrant is attached to this document.

◆◆

UNCLASSIFIED

From: [redacted] (FBI)
Sent: Thursday, June 22, 2017 12:38 PM
To: [redacted] (FBI); [redacted] (SF) (FBI)
Subject: RE: Emailing: Cell Site Simulator [redacted]

b6 -1
b7C -1
b7E -1

Approved.

From [redacted] (SF) (FBI)
Sent: Thursday, June 22, 2017 11:43 AM
To [redacted] (FBI); [redacted] (SF) (FBI) [redacted]
Subject: Fwd: Emailing: Cell Site Simulator - [redacted]

b6 -1
b7C -1
b7E -1,3,6

[redacted] has reviewed and approved of a state warrant attached for [redacted] to identify (not locate) secondary cell phones being used [redacted] target's. We already have [redacted] open on this case with [redacted] approval, so I'm not sure if this request has to go up the [redacted] as well. Please advise.

[redacted] The targets are suspects in a [redacted] that occurred on [redacted] is the original number for [redacted] (suspected shooter). [redacted] belonging to [redacted] came up on 06/09/2017. On Friday 06/16/2017 they went up on [redacted] second phone). However, over the weekend it was discovered that [redacted] belongs to an associate with no known connection to the homicide. TT5 has since been taken down. Both [redacted] have openly talked about having second phones, and have terminated calls on the monitored lines to continue conversations on those phones. [redacted]

b3 -1
b6 -3
b7C -3
b7E -1,6

[redacted] Plans to [redacted] have been postponed until secondary phones are identified and monitoring begins.

[redacted] is also a suspect in a drive by shooting on [redacted]

----- Original message -----

From: [redacted] (FBI)" [redacted]
Date: 6/22/17 10:55 AM (GMT-08:00)
To: [redacted] (FBI) [redacted]
Subject: Re: Emailing: Cell Site Simulator [redacted]

[redacted]
Looks good
[redacted]

b6 -1
b7C -1
b7E -2

----- Original message -----

From: [redacted] (FBI) [redacted]
Date: 6/21/17 8:49 PM (GMT-05:00)

To: [redacted] (FBI) [redacted]
Cc: [redacted]
Subject: Fwd: Emailing: Cell Site Simulator [redacted]

b6 -1,2
b7C -1,2
b7E -1,2

[redacted]

Here is the draft warrant for the cell site simulator after review by [redacted] He and [redacted] Investigator [redacted] are ccd.

Please acknowledge receipt and review. Thank you!

[redacted]

-
----- Original message -----

From: [redacted]
Date: 6/21/17 5:40 PM (GMT-08:00)
To: [redacted] (FBI)"
[redacted]
Subject: Re: Emailing: Cell Site Simulator [redacted]

b6 -1,2
b7C -1,2
b7E -1,2

Changes made ... here you go.

From: [redacted]
Sent: Wednesday, June 21, 2017 3:40:39 PM
To: [redacted] (FBI)
Subject: Emailing: Cell Site Simulator [redacted]

Your message is ready to be sent with the following file or link attachments:

Cell Site Simulator [redacted]

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

[redacted]

From: [REDACTED]
Sent: Tuesday, June 20, 2017 4:27 PM
To: [REDACTED] (FBI)
Cc: [REDACTED]
Subject: Nondisclosure Agreement

b3 -1
b6 -1,2
b7C -1,2
b7E -1

Greetings.

I have received the Nondisclosure Agreement.

[REDACTED]

[REDACTED]

From: [redacted]
Sent: Wednesday, June 21, 2017 1:29 PM
To: [redacted] (FBI)
Subject: RE: NDA

Receipt confirmed,

b3 -1
b6 -1,2
b7C -1,2
b7E -1,2

[redacted]
[redacted]

From: [redacted] (FBI) [mailto:[redacted]]
Sent: Tuesday, June 20, 2017 3:18 PM
To: [redacted]
Subject: NDA

[redacted] and [redacted]

Attached is an NDA for the [redacted] I will need a [redacted] level or higher to confirm receipt of the NDA. The return email to me should just confirm receipt....No more, no less.

[redacted]

[Redacted] (IMD) (CON)

Sent: Thursday, November 12, 2015 12:39 PM
To: [Redacted] (OTD) (FBI); [Redacted] (OTD) (FBI)
Cc: [Redacted] (OTD)(CON); [Redacted] (OTD)(FBI); [Redacted] (OTD) (FBI); [Redacted] (FBI); [Redacted] (OGC)(FBI)
Subject: RE: Assigned Task: DUE noon 11/12/15 The FBI's Use of Cell Site Simulators (Stingrays) Hearing Paper - [Redacted] Oversight Hearing --- UNCLASSIFIED

Classification: UNCLASSIFIED

Please see the [Redacted] submission attached.



b3 -1
b6 -1
b7C -1
b7E -1,3

From: [Redacted] (OTD) (FBI)
Sent: Monday, November 09, 2015 12:08 PM
To: [Redacted] (OTD) (FBI)
Cc: [Redacted] (ER)(CON); [Redacted] (OTD)(CON); [Redacted] (OTD)(FBI)
Subject: FW: Assigned Task: DUE noon 11/12/15 The FBI's Use of Cell Site Simulators (Stingrays) Hearing Paper [Redacted] Oversight Hearing --- ~~SECRET//NOFORN~~
Importance: High

Classification: ~~SECRET//NOFORN~~

Upon removal of attachment(s), this document is UNCLASSIFIED//~~FOUO~~

~~Classified By: [Redacted]
Derived From: FBI NSIC dated 20130301
Declassify On: 20401231~~

b6 -1
b7C -1

(U//~~FOUO~~ [Redacted] please assign this task within [Redacted] You may task [Redacted] for administrative and research assistance. Please note the detailed request described below ([SPBookmark Detailed x0020 Request x0020](#)).

b3 -1
b6 -1
b7C -1
b7E -1,3

Here are the questions to be answered:

<< File: FBI's Use of Stingrays.docx >>

Here are some previous responses that can form the bases of your responses:

<< File: Department_Policy_Memo.pdf >> << File: [Redacted] >> << File: Public_Affairs_Guidance_on_FBI_Cell_Site_Simulators_20150914.pdf >>

From: [redacted] (OTD) (FBI)
Sent: Monday, November 09, 2015 11:43 AM
To: [redacted] (OTD) (FBI); [redacted] (OTD)(CON); [redacted] (OTD)(FBI)
Cc: [redacted] (OTD) (FBI); [redacted] (OTD) (FBI); [redacted] (OTD) (FBI)
Subject: FW: Assigned Task: DUE noon 11/12/15 The FBI's Use of Cell Site Simulators (Stingrays) Hearing Paper - [redacted]
[redacted] Oversight Hearing --- UNCLASSIFIED
Importance: High

b6 -1
b7C -1

Classification: UNCLASSIFIED
=====

[redacted]
Please see tasking below and reply to [redacted] and [redacted] by noon 11/12/2015. Please see attachment.
Per [redacted] wants the info early due to [redacted] travel schedule.

b6 -1
b7C -1
b7E -2

[redacted] Tracking Number: [redacted]
External Tracking Number: [redacted]
Title: The FBI's Use of Cell Site Simulators (Stingrays) Hearing Paper - Dec 9 SJC Annual Oversight Hearing
Classification: UNCLASSIFIED
Priority: 4. Low

Tasking POC: [redacted]
Originator: [redacted] Exec [redacted]
Deadline: 11/12/2015 5:00 PM

b6 -1
b7C -1
b7E -3

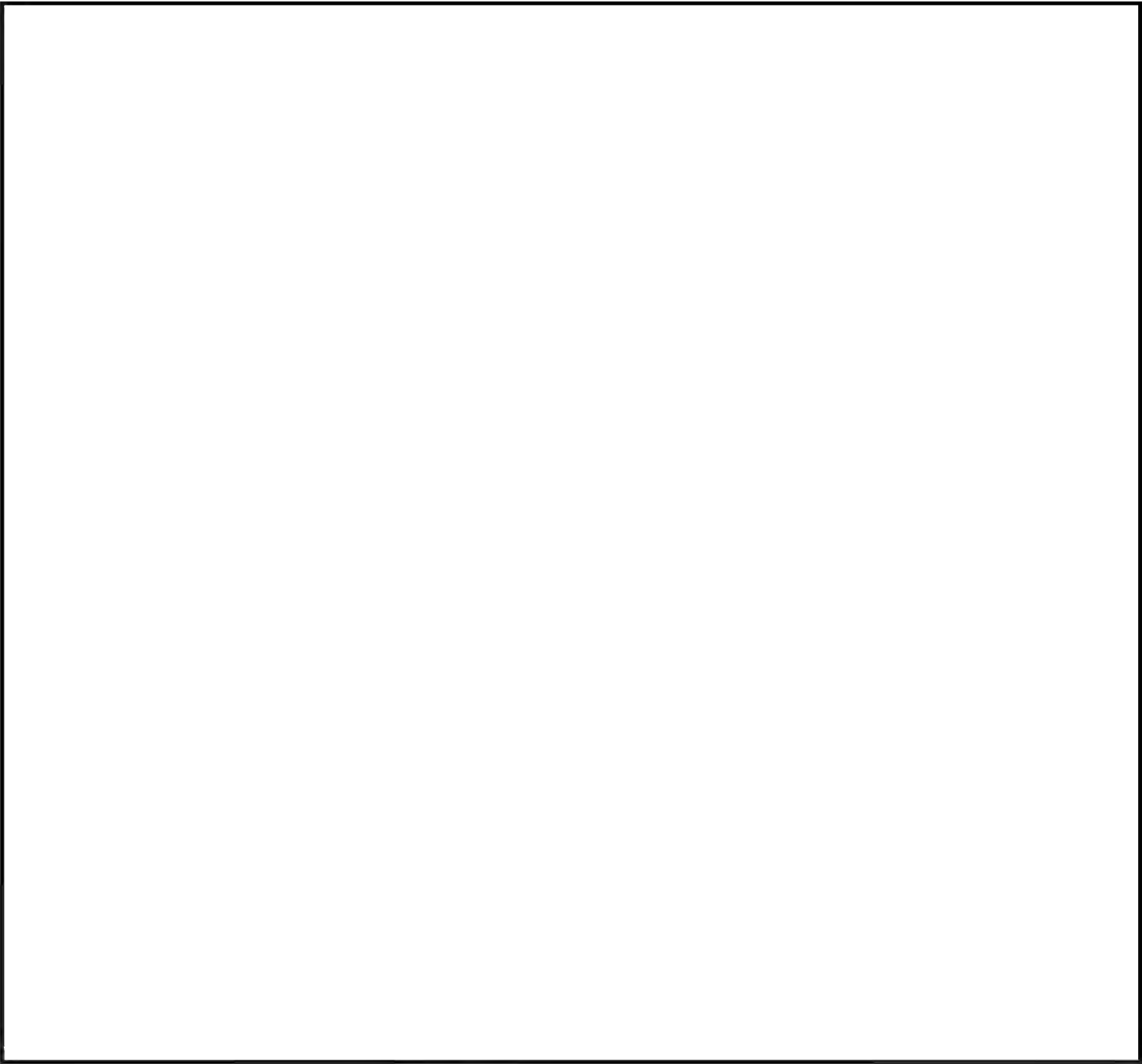
Summary Of Request: Tasked to [redacted]
Action: Answer the questions in the attached document. This is to prep the Director for the 12/9/15 hearing.
[redacted] approval will be required prior to submitting these to [redacted] for review. [redacted] is asking for this response by Friday, 11/13, COB, but the actual tasking isn't due back to [redacted] until 11/20.
Task Title: The FBI's Use of Cell Site Simulators (Stingrays) Hearing Paper
Hearing Title: 20151209 SJC Annual Oversight Hearing
The Director is scheduled to testify before the Senate Judiciary Committee on December 9, 2015. The Office of Congressional Affairs (OCA), Special Projects Unit (SPU), is currently assigning tasks for the Questions & Answers (Q&A's) that are needed to prepare him for his appearance.

Detailed Request Description:

This will be an OPEN hearing session, therefore unclassified responses are requested. If it is necessary to include classified information to enhance the Director's understanding of an issue then please ensure all material is appropriately portion marked so it is clear what can be said in an open setting.

[Large redacted area]

b5 -1



Intended Audience and Purpose:

Thanks,

[Redacted signature block]

b5 -1
b6 -1
b7C -1
b7E -2,3

Desk [Redacted]
Blackberry [Redacted]

From: [Redacted]
Sent: Monday, November 09, 2015 11:02 AM
To: [Redacted] (OTD) (FBI); [Redacted] (OTD) (CON); [Redacted] (OTD) (FBI); [Redacted] (OTD) (FBI); [Redacted] (OTD) (FBI)
Subject: Assigned Task: The FBI's Use of Cell Site Simulators (Stingrays) Hearing Paper - Dec 9 SJC Annual Oversight Hearing

Hello,

You have been assigned as an approver on the following task: The FBI's Use of Cell Site Simulators (Stingrays) Hearing Paper - Dec 9 SJC Annual Oversight Hearing

Available Tracking Numbers

[redacted] Tracking Number: [redacted]

External Tracking Number: [redacted] Stingray

b7E -2,3

[redacted] Tasks

The following are deadlines associated with this task:

Deadline: 11/12/2015 5:00:00 PM

This email was automatically sent, please do not reply.

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Classification: UNCLASSIFIED

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Classification: ~~SECRET//NOFORN~~

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Classification: UNCLASSIFIED

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FOI/PA# 21-cv-10719

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[redacted] (IMD) (CON)

Sent: Monday, November 30, 2015 12:33 PM b6 -1
To: [redacted] (OTD) (FBI) b7C -1
Subject: FW: OTD Tasks - The FBI's Use of Cell Site Simulators... has been assigned to you --- UNCLASSIFIED//LES
Attachments: FBI's_Use_of_Stingrays_-finalresponse_11282015.docx;
 FBI's_Use_of_Stingrays_finalresponse_11282015_clean.docx

Classification: UNCLASSIFIED//~~LES~~

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[redacted]
[redacted]

From: [redacted] (DO)(FBI) b6 -1
Sent: Saturday, November 28, 2015 2:07 PM b7C -1
To: [redacted] (DO)(FBI)
Cc: [redacted] (OTD) (FBI)
Subject: RE: OTD Tasks - The FBI's Use of Cell Site Simulators... has been assigned to you --- UNCLASSIFIED//~~LES~~

Classification: UNCLASSIFIED//~~LES~~

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Good afternoon, [redacted] b6 -1
b7C -1
b7E -3

Sorry again for the delay. I've attached the [redacted] edits in a tracked version (so you and [redacted] can see the minor changes), and then attached a final "clean" version.

Please let me know if you need anything else!

Thank you,

[Redacted]

From: [Redacted] (DO)(FBI)
Sent: Wednesday, November 25, 2015 11:36 AM
To: [Redacted] (DO)(FBI)
Cc: [Redacted] (OTD) (FBI)
Subject: RE: OTD Tasks - The FBI's Use of Cell Site Simulators... has been assigned to you --- UNCLASSIFIED//~~LES~~

b6 -1
b7C -1

Classification: UNCLASSIFIED//~~LES~~
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Thanks [Redacted] As I have explained to [Redacted] if we don't get the final [Redacted] approved version today, we'll just use the current version that [Redacted] provided and mark it as a "draft" when we send it up to the Director.

[Redacted]

b6 -1
b7C -1

From: [Redacted] (DO)(FBI)
Sent: Wednesday, November 25, 2015 11:05 AM
To: [Redacted] (DO)(FBI)
Cc: [Redacted] (OTD) (FBI)
Subject: RE: OTD Tasks - The FBI's Use of Cell Site Simulators... has been assigned to you --- UNCLASSIFIED//~~LES~~

Classification: UNCLASSIFIED//~~LES~~
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Hi [Redacted]

b6 -1
b7C -1

I've sent to her for her review and copied her [Redacted] as well. She is aware that we are past the due date, so I would anticipate that she will.

Apologies for the delays!

[Redacted]

From: [Redacted] (DO)(FBI)
Sent: Wednesday, November 25, 2015 10:12 AM

To: [redacted] (OTD) (FBI)
Cc: [redacted] (DO)(FBI)

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b7C -1

Subject: RE: OTD Tasks - The FBI's Use of Cell Site Simulators... has been assigned to you --- UNCLASSIFIED//LES

Classification: UNCLASSIFIED//LES

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TRANSITORY RECORD

Thank you [redacted] Any chance [redacted] will review today?

[redacted]

From: [redacted] (OTD) (FBI)
Sent: Wednesday, November 25, 2015 10:01 AM
To: [redacted] (DO)(FBI)
Cc: [redacted] (DO)(FBI)
Subject: FW: OTD Tasks - The FBI's Use of Cell Site Simulators... has been assigned to you --- UNCLASSIFIED//LES
SharePoint Tasks List: OTD Tasks

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[redacted]

Classification: UNCLASSIFIED//LES

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[redacted] Attached is OTD's response to this tasking. [redacted] Please note that the document is pending [redacted] review. She might have additional edits.

b5 -1
b6 -1
b7C -1

[redacted]

From: Congressional Hearing Website [redacted]
Sent: Friday, November 06, 2015 1:10 PM
To: [redacted] (OTD) (FBI)
Subject: OTD Tasks - The FBI's Use of Cell Site Simulators... has been assigned to you
SharePoint Tasks List: OTD Tasks

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b7C -1
b7E -2

[redacted]

[redacted]
The FBI's Use of Cell Site Simulators... has been assigned to you

Modify my alert settings | View The FBI's Use of Cell Site Simulators... | View OTD Tasks | Mobile View

Task Title: The FBI's Use of Cell Site Simulators (Stingrays)" Hearing Paper

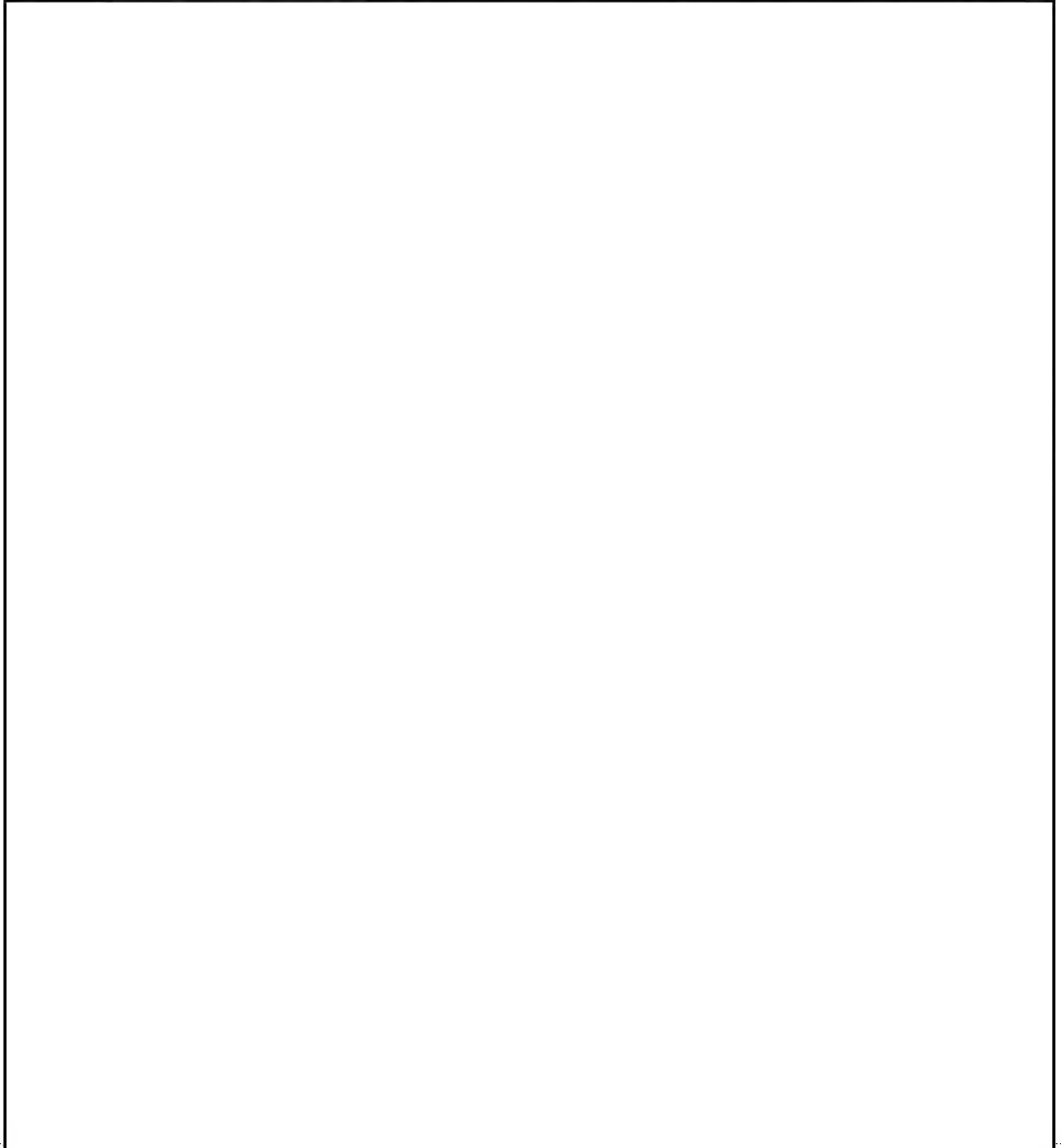
Assignee(s): OTD Task Members

Hearing Title: 20151209 SJC Annual Oversight Hearing

Notes: The Director is scheduled to testify before the Senate Judiciary Committee on December 9, 2015. The Office of Congressional Affairs (OCA), Special Projects Unit (SPU), is currently assigning tasks for the Questions & Answers (Q&A's) that are needed to prepare him for his appearance.

This will be an OPEN hearing session, therefore unclassified responses are requested. If it is necessary to include classified information to enhance the Director's understanding of an issue then please ensure all material is appropriately portion marked so it is clear what can be said in an open setting.

b5 -1





Click on the "Link to Document" at the bottom of this email to begin working on this paper.

Due Date: 11/20/2015
Hearing Date: 12/9/2015
Link to Document: [FBI's Use of Stingrays paper](#)
Task Status (OCA Only): Incomplete

Last Modified: 11/6/2015 1:10 PM by [redacted] (D)(FBI)

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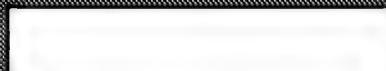
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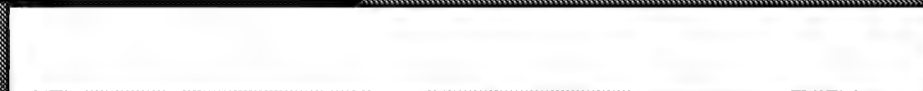
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Decision Brief: Cell Site Simulator (CSS) Non- Disclosure Agreement (NDA) Policy



Associate General Counsel



*THIS BRIEFING IS UNCLASSIFIED//~~LAW ENFORCEMENT SENSITIVE~~
ATTORNEY-CLIENT COMMUNICATION - DO NOT RELEASE WITHOUT OGC PERMISSION*

b6 -1
b7C -1
b7E -3

[Redacted]

(IMD) (CON)

b6 -1
b7C -1

Sent: Wednesday, March 9, 2016 3:49 PM
To: [Redacted] (OTD) (FBI)
Cc: [Redacted] (OTD) (FBI); [Redacted] (OTD) (FBI); [Redacted] (OTD) (FBI); [Redacted] (OGC) (FBI)
Subject: Decision Brief for CSS NDAs --- UNCLASSIFIED//~~LES~~

Classification: UNCLASSIFIED//~~LES~~
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PROCESS PRIVILEGED DOCUMENT

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TRANSITORY RECORD

[Redacted]

[Redacted] and I went over these slides this morning, and attached are the final version. [Redacted] and I would be happy to brief you and/or the [Redacted] on this.

b6 -1
b7C -1
b7E -2

[Redacted]

[Redacted]

FBI Office of the General Counsel

O: [Redacted]
BB: [Redacted]
E-Mail (U): [Redacted]
E-Mail (S): [Redacted]

Confidentiality Statement: This message is transmitted to you by the Office of the General Counsel of the Federal Bureau of Investigation. The message, along with any attachments, may be confidential and legally privileged. If you are not the intended recipient of this message, please destroy it promptly without further retention or dissemination (unless otherwise required by law). Please notify the sender of the error by a separate e-mail or by calling [Redacted]

[Redacted]

b5 -1,2
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Classification: UNCLASSIFIED//~~LES~~

Respectfully,

[Redacted]

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b7C -1



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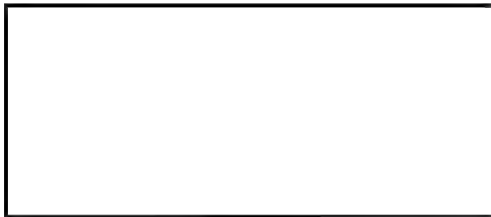
U.S. Department of Justice



Federal Bureau of Investigation

Washington, D.C. 20535-0001

October 14, 2011




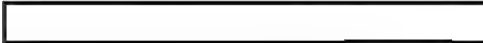



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b7E -1

Re: Purchase of Wireless Collection Equipment/Technology and Non-Disclosure Obligations

~~LAW ENFORCEMENT SENSITIVE (LES)~~. The information in this document is the property of the Federal Bureau of Investigation (FBI) and may be distributed within the Federal Government (and its contractors), U.S. intelligence, law enforcement, public safety or protection officials and individuals with a need to know. Distribution beyond these entities without FBI Operational Technology Division authorization is prohibited. Precautions should be taken to ensure this information is stored and/or destroyed in a manner that precludes unauthorized access. Information bearing the LES caveat may not be used in legal proceedings without first receiving authorization from the originating agency. Recipients are prohibited from subsequently posting the information marked LES on a website on an unclassified network.

Dear Commander 

b3 -1
b7E -1

We have been advised by  of the  request to purchase certain wireless collection equipment/technology manufactured by  . Consistent with the conditions on the equipment authorization granted to  by the Federal Communications Commission (FCC), state and local law enforcement agencies must coordinate with the Federal Bureau of Investigation (FBI) to complete this non-disclosure agreement prior to the acquisition and use of the equipment/technology authorized by the FCC authorization.

As you are aware, law enforcement agencies increasingly rely on wireless collection equipment/technology to conduct lawfully-authorized electronic surveillance. Disclosing the existence of and the capabilities provided by such equipment/technology to the public would reveal sensitive technological capabilities possessed by the law enforcement community and may allow individuals who are the subject of investigation wherein this equipment/technology is used to employ countermeasures to avoid detection by law enforcement. This would not only potentially endanger the lives and physical safety of law enforcement officers and other

individuals, but also adversely impact criminal and national security investigations. That is, disclosure of this information could result in the FBI's inability to protect the public from terrorism and other criminal activity because, through public disclosures, this technology has been rendered essentially useless for future investigations. In order to ensure that such wireless collection equipment/technology continues to be available for use by the law enforcement community, the equipment/technology and any information related to its functions, operation, and use shall be protected from potential compromise by precluding disclosure of this information to the public in any manner including by not limited to: in press releases, in court documents, during judicial hearings, or during other public forums or proceedings. Accordingly, the [redacted] agrees to the following conditions in connection with its purchase and use of the [redacted]

b3 -1
b7E -1

1. The [redacted] will ensure that operators of the equipment have met the operator training standards identified by the FBI and are certified to conduct operations.
2. The [redacted] will coordinate with the FBI in advance of its use of the wireless collection equipment/technology to ensure de-confliction of respective missions.
3. The [redacted] will not distribute, disseminate, or otherwise disclose any information concerning the wireless collection equipment/technology or any software, operating manuals, or related technical documentation (including its technical/engineering description(s) and capabilities) to the public, including to any non-law enforcement individuals or agencies.
4. The [redacted] will not distribute, disseminate, or otherwise disclose any information concerning the wireless collection equipment/technology or any software, operating manuals, or related technical documentation (including its technical/engineering description(s) and capabilities) provided to it any other law enforcement or government agency without the prior written approval of the FBI. Prior to any approved distribution, dissemination, or comparable disclosure of any information concerning the wireless collection equipment/technology or any software, manuals, or related technical documentation related to such equipment/technology, all materials shall be marked "Law Enforcement Sensitive, For Official Use Only - Not to be Disclosed Outside of the [redacted]"
5. The [redacted] shall not, in any civil or criminal proceeding, use or provide any information concerning the [redacted] [redacted] its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities) beyond the evidentiary results obtained through the use of the equipment/technology including, but not limited to, during pre-trial matters, in search warrants and related affidavits, in discovery, in response to court ordered disclosure, in other affidavits, in grand jury hearings, in the State's case-in-chief, rebuttal, or on appeal, or in testimony in any phase of civil or criminal trial, without the prior written approval of the FBI. If the

b3 -1
b7E -1

[redacted] learns that a District Attorney, prosecutor, or a court is considering or intends to use or provide any information concerning the [redacted] [redacted], its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities) beyond the evidentiary results obtained through the use of the equipment/technology in a manner that will cause law enforcement sensitive information relating to the technology to be made known to the public, the [redacted] [redacted] will immediately notify the FBI in order to allow sufficient time for the FBI to intervene to protect the equipment/technology and information from disclosure and potential compromise.

b3 -1
b7E -1

Notification shall be directed to the attention of:

[redacted]
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A
Quantico, Virginia 22135
[redacted]

b6 -1
b7C -1
b7E -2,3

and

[redacted]
Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Quantico, Virginia 22135
[redacted]

In addition, the [redacted] will, at the request of the FBI, seek dismissal of the case in lieu of using or providing, or allowing others to use or provide, any information concerning the [redacted] [redacted] its associated software, operating manuals, and any related documentation (beyond the evidentiary results obtained through the use of the equipment/technology), if using or providing such information would potentially or actually compromise the equipment/technology.

b3 -1
b7E -1

6. A copy of any court order in any proceeding in which the [redacted] [redacted] is a party directing disclosure of information concerning the [redacted] [redacted] and any associated software, operating manuals, or related documentation (including its technical/engineering description(s) and capabilities) will immediately be provided to the FBI in order to allow sufficient time for the FBI to

intervene to protect the equipment/technology and information from disclosure and potential compromise. Any such court orders shall be directed to the attention of:

[Redacted]

Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A
Quantico, Virginia 22135

[Redacted]

b6 -1
b7C -1
b7E -2,3

and

[Redacted]

Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Quantico, Virginia 22135

[Redacted]

7. The [Redacted] will not publicize its purchase or use of the [Redacted] or any of the capabilities afforded by such equipment/technology to the public, other law enforcement agencies, or other government agencies, including, but not limited to, in any news or press releases, interviews, or direct or indirect statements to the media.

b3 -1
b7E -1

8. In the event that the [Redacted] receives a request pursuant to the Freedom of Information Act (5 U.S.C. § 552) or an equivalent state or local law, the civil or criminal discovery process, or other judicial, legislative, or administrative process, to disclose information concerning the [Redacted] [Redacted] its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities), the [Redacted] will immediately notify the FBI of any such request telephonically and in writing in order to allow sufficient time for the FBI to seek to prevent disclosure through appropriate channels. Notification shall be directed to the attention of:

[Redacted]

Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A
Quantico, Virginia 22135

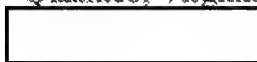
[Redacted]

b6 -1
b7C -1
b7E -2

and



Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Quantico, Virginia 22135



b6 -1
b7C -1
b7E -2,3

The [redacted] acceptance of the above conditions shall be evidenced by the signatures below of an authorized representative and wireless collection equipment operators of the [redacted]

b3 -1
b7E -1

Sincerely,

[redacted signature box]

[redacted] DIVISION
Federal Bureau of Investigation

Acknowledged and agreed to this 15 day of March, 2011.

[Large redacted signature box]

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b6 -1,2
b7C -1,2
b7E -1

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[Redacted]

(IMD) (CON)

b6 -1
b7C -1

Sent: Friday, October 9, 2015 12:36 PM

To: [Redacted] (OTD) (FBI); [Redacted] (OTD) (FBI); [Redacted] (JN) (FBI)

Cc: [Redacted] (OTD)(FBI); [Redacted] (OTD)(CON); [Redacted] (OTD) (FBI); [Redacted] (OTD) (FBI); [Redacted] (OGC)(FBI); [Redacted] (OGC)(FBI)

Subject: RE: Assigned Task: Cell Site Simulator - NDA Meeting with [Redacted]
[Redacted] --- UNCLASSIFIED//LES

Classification: UNCLASSIFIED//LES

Upon removal of attachment(s), this document is UNCLASSIFIED

=====

TRANSITORY RECORD

(U) ~~LAW ENFORCEMENT SENSITIVE~~: The information marked (U//LES) in this document is the property of FBI and may be distributed within the Federal Government (and its contractors), US intelligence, law enforcement, public safety or protection officials and individuals with a need to know. Distribution beyond these entities without FBI authorization is prohibited. Precautions should be taken to ensure this information is stored and/or destroyed in a manner that precludes unauthorized access. Information bearing the LES caveat may not be used in legal proceedings without first receiving authorization from the originating agency. Recipients are prohibited from subsequently posting the information marked LES on a website or an unclassified network.

This is the TTU response to [Redacted]

b6 -1
b7C -1
b7E -2

1. Action: OTD to provide [Redacted] with copies of NDAs.
Response: This was accomplished o/a 10/07 by [Redacted]



FW: CS2
[Redacted]

2. Action: OTD to proactively identify areas which might be made clearer in the NDA.

- a. [Redacted] b5 -1



[Redacted]

- b. Response: Identification of areas (from the NDA) which might be made clearer in a replacement document are incorporated in 3. below.

3. Action: OTD should also think about [Redacted] b5 -1
[Redacted]

Hello,

You have been assigned as an approver on the following task: Cell Site Simulator - NDA Meeting with [redacted]

Available Tracking Numbers

[redacted] Tracking Number: [redacted]

External Tracking Number [redacted]

b6 -1
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[redacted] Tasks

The following are deadlines associated with this task:

Deadline: 10/19/2015 5:00:00 PM

This email was automatically sent, please do not reply.

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Classification: UNCLASSIFIED

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Classification: UNCLASSIFIED//~~LES~~

Respectfully,

[redacted signature box]

b6 -1
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U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535-0001

November 20, 2014

IN TURN



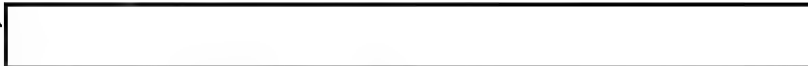
b3 -1
b7E -1

14 NOV 25 PM 12:17

MAYOR'S OFFICE

Re: Acquisition of Cell Site Simulator/Pen Register Equipment/Technology and Non-Disclosure Obligations

Dear



b3 -1
b7E -1

We have been notified of the [redacted] request for acquisition of certain cell site simulator/pen register equipment providing cellular device locating and identifying capability. Consistent with the condition on the equipment authorization granted by the Federal Communications Commission, State and local law enforcement agencies must coordinate with the Federal Bureau of Investigation (FBI) to complete this non-disclosure agreement in order to acquire and use cell site simulator/pen register equipment/technology.

Law enforcement agencies rely on cellular device locating and identifying capability to help meet their law enforcement and public safety responsibilities. Disclosure of certain information about cell site simulator/pen register equipment and techniques to the public, such information referred to by the Federal Government as Law Enforcement Sensitive (LES), would

allow adversaries of law enforcement to diminish or thwart law enforcement efforts, thereby enabling such adversaries to evade detection and circumvent the law. Disclosure of even minor details about this technology or its use may reveal more information than its apparent insignificance suggests because, much like a jigsaw puzzle, each detail may aid in piecing together other bits of information even when the individual piece is not of obvious importance in itself. Thus, disclosure of what appears to be innocuous information about cell site simulators would provide adversaries with critical information about the capabilities, limitations, and circumstances of their use, and would allow those adversaries to accumulate information and draw conclusions about the use and technical capabilities of the technology. In turn, this would provide them the information necessary to develop defensive technology, modify their behaviors, and otherwise take countermeasures designed to thwart the use of this technology in order to evade detection by law enforcement and circumvent the law. Moreover, the same techniques, equipment, and tools used in criminal cases are often used in counterterrorism and counterintelligence investigations. Thus, compromise of the law enforcement community's investigational equipment and methods in a criminal case or a public records disclosure could have a significant detrimental impact on the national security of the United States.

Due to these concerns, the FBI has consistently asserted that the details concerning the use, implementation and application of cell site simulator technology is both law enforcement sensitive and protected homeland security information, and any disclosure could easily impair the use of this important investigative method. In recognition of this vulnerability, the FBI has, as a matter of policy, protected this category of electronic surveillance equipment and technique from disclosure, directing its agents that while general facts that a surveillance or location operation was conducted in connection with a specific case may be disclosed, neither details as to the equipment's operation nor the tradecraft involved may be disclosed. *See United States v. Rigmaiden*, 845 F.Supp. 982 (D.Ariz. 2012); *United States v. Garey*, 2004 WL 2663023 (M.D.Ga. Nov. 15, 2004).

As mentioned earlier, any information concerning cell site simulator equipment or technology (including, but not limited to information about the operation of the equipment or technology itself, limitations or capabilities of the equipment or technology, any training

materials concerning the capabilities or technology, or tradecraft required to operate the equipment) authorized by the FBI to be provided to your agency is considered protected homeland security information under the Homeland Security Act ("HSA"). Under 6 U.S.C. § 482(e), homeland security information "obtained by a State or local government from a Federal agency under this section shall remain under the control of the Federal agency, and a State or local law authorizing or requiring such government to disclose information shall not apply to such information." The HSA defines "homeland security information" as information that relates to the ability to prevent, interdict, or disrupt terrorist activity; information that would improve the identification or investigation of a suspected terrorist or terrorist organization; or information that would improve the response to a terrorist act. *See* 6 U.S.C. §§ 482(f)(1)(B)-(D). Cell site simulator technology meets all three criteria. Accordingly, by signing this agreement, your agency agrees and understands that disclosure of protected homeland security information is specifically prohibited under Federal law, and that this law expressly preempts state and local disclosure laws under the Supremacy Clause (Article VI, clause 2) of the United States Constitution. *See, e.g., Lorillard Tobacco Co. v. Reilly*, 533 U.S. 525, 541 (2001) (as a general principle, Federal law preempts State law where Congress has said so explicitly).

Finally, by entering into this agreement, you acknowledge that you understand cell site simulator technology is a regulated defense article on the United States Munitions List ("USML"). *See* 22 C.F.R. § 121.1(b). As such, technical details concerning this technology are subject to the non-disclosure provisions of the International Traffic In Arms Regulations ("ITAR"), 22 C.F.R., Parts 120-130. The ITAR implements the Arms Export Control Act, 22 U.S.C. § 2778, and Executive Order 13,637, which control the export and import of defense-related articles and services listed on the USML. Because this equipment is explicitly governed by the ITAR, 22 C.F.R. § 123.1 requires anyone to obtain a license from the Department of State prior to making an export. Notably, technical information does not have to leave the borders of the United States to be deemed an export subject to the regulation. *See* 22 C.F.R. § 120.17 (defining an export as the disclosure of technical data about a defense article to a foreign national, even while located in the United States). Consequently, if a State or local government disseminates any part of the technical information to an entity knowing that the entity intends to or is likely to publish or further disseminate the information in some fashion that would make it

accessible to non-U.S. citizens, or that the requesting entity employs or has any non-U.S. citizens present at its offices, this could constitute a violation of the Arms Control Export Act. Unauthorized disclosure of ITAR-controlled information is a felony punishable by up to 20 years imprisonment and up to \$1 million per occurrence. *See* 22 C.F.R., Part 127.

Accordingly, to preserve the continued efficacy of the capability for the Law Enforcement Community, the [redacted] and [redacted] agree to the following conditions in connection with the acquisition and use of the cell site simulator/pen register equipment/technology:

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1. The signing State or municipal government official affirms that he or she has the authority to lawfully obligate his or her State or municipality to the conditions of this agreement. Moreover, the official affirms that appropriate legal counsel has determined the nondisclosure obligations herein are defensible under State law, as possibly augmented by Federal statutory protections, such as might be necessary for public records access requests, and that the State or municipality will itself perform due diligence in meeting its nondisclosure obligations as and when necessary.
2. The signing law enforcement agency official affirms that he or she has the authority to lawfully obligate his or her agency and its personnel to the conditions of this agreement. Moreover, the official affirms that the law enforcement agency will itself perform due diligence in meeting its nondisclosure obligations as and when necessary.
3. The signing law enforcement agency official affirms that the appropriate chief prosecuting official(s) representing the jurisdiction(s) of possible use of the agency's cellular device identifying and locating capability was (were) notified of the law enforcement agency's intended acquisition of the equipment/technology and he or she (they) indicated an understanding that use of the capability in a specific prosecutorial jurisdiction by the law enforcement agency is conditioned on the chief prosecuting official's separate written non-disclosure agreement with the FBI (notification and request for the separate agreement to be made as indicated in condition 10. below).

Furthermore, the law enforcement agency official agrees that, after exhaustion of all other lawful means, including implementing advice and assistance from the FBI, the law enforcement agency will, at the request of the FBI, seek dismissal of the case with the prosecutorial jurisdiction in lieu of using or providing, or allowing others to use or provide, any sensitive information concerning the cell site simulator/pen register equipment/technology in criminal litigation.

4. The signing law enforcement agency official affirms that the law enforcement agency has statutory authority to lawfully employ this technology and will do so only in support of public safety operations or criminal investigations within State or municipal jurisdictions that are also party to appropriate, related nondisclosure agreements with the FBI. Moreover, the law enforcement agency assumes responsibility for operating the equipment/technology in accordance with State and Federal law and regulation and accepts sole liability for any violations thereof, irrespective of the Federal Bureau of Investigation approval, if any, for the acquisition of the equipment/technology.
5. The signing law enforcement agency official affirms that he or she understands and acknowledges that this equipment, under Federal law, functions as a pen register device as defined in 18 U.S.C. §3127(3), and that 18 U.S.C. §3121(a) prohibits any person, including law enforcement, from operating a pen register device without first obtaining a court order, or having emergency pen register authority under either State or Federal law, as applicable. The signing law enforcement agency official agrees that he or she will not permit the operation of the device without having a court-issued pen register order or emergency pen register authority as outlined in Federal or State law.
6. The signing law enforcement agency official affirms that he or she understands that he or she is prohibited by Federal law from intercepting the content of any communications with a pen register device, and that he or she must use technology reasonably available to the agency to restrict the equipment to recording or decoding electronic or other impulse to the dialing, routing, addressing and signaling information utilized in the processing and transmitting of wire or electronic communications. *See* 18 U.S.C. §3121(c).

7. The signing law enforcement agency official affirms that operators of the equipment meet the operator training standards, identified separately by the FBI, before operating the equipment, are certified by their agency to conduct operations, are notified of the conditions of this agreement, and are legally bound to this agreement by virtue of their employment or through an internal written contract with the agency or State or municipal government.

8. The State or municipal government and/or law enforcement agency may, without first obtaining prior approval from the FBI, confirm or disclose in public for official business only, including for the purpose of obtaining relevant legal authority, the following: 1) the agency has cell site simulator/pen register equipment (without disclosing make and model) that provides the capability to locate or identify a cellular device, 2) a description of the legal authority relied upon for using the capability, 3) a description not containing LES information (see conditions 9. and 10. below) of agency policies or practices that ensure legal compliance and protection of third party privacy rights, 4) the fact that the capability might cause temporary disruption of service for certain cellular devices in the operating area, 5) that the equipment was used to determine general location information about the target cellular device, and 6) that the capability is a sensitive investigative technique so further details are protected and will not be publicly disclosed or confirmed. Note: The preceding provisions shall be narrowly and strictly construed. Any questions regarding interpretation or scope of these provisions must be addressed with the FBI prior to disclosure.


9. Except for the strictly constructed permission in condition 8. above or for necessary deliberations between relevant officials necessary for coordination of this nondisclosure agreement, criminal or civil litigation discovery considerations, or public records access request processing, in which the exercise of due diligence to protect LES information and timely notice to the FBI pursuant to this agreement is presumed, the State or municipal government and law enforcement agency will not, absent written FBI approval, distribute, disseminate, disclose, or otherwise confirm any LES information, as determined by the

FBI, concerning the cell site simulator/pen register equipment/technology to the public, including to any non-law enforcement individuals or agencies not otherwise part of this agreement. These restrictions include, but are not limited to, tradecraft, technical details, functional limitations or vulnerabilities, manufacturer, model name, hardware, software, operating manuals, related technical documentation (including technical/engineering descriptions and capabilities), line item costs, or related entries in acquisition, funding, grant, or procurement documents, such documents often being susceptible to public disclosure by State or municipal financial authorities.

10. The signing State or municipal government official and the signing law enforcement agency official affirm on behalf of their respective organizations that questions about or determinations of what constitutes LES or protected homeland security information will be deferred to the FBI. If the State or municipal government or law enforcement agency receives a request or order to disclose any information about the cell site simulator equipment/technology, or learns of such anticipated activity, an appropriate official will immediately notify the FBI in order to allow sufficient time for the FBI to assist in protecting the equipment/technology.

All notifications or inquiries regarding this agreement and the subject capability shall be directed to the attention of:



Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A
Quantico, Virginia 22135
Telephon 

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11. The signing law enforcement official understands and acknowledges that his or her agency's approval to acquire and use the cell site simulator is expressly conditioned on execution of and adherence to this non-disclosure agreement with the FBI. In the event that the FBI determines the agency is failing to abide by the conditions in this agreement, the FBI may notify the vendor/manufacture to discontinue services for, or disable, the agency's cell site simulator/pen register equipment.

12. Once signed, the conditions of this agreement remain in effect until rescinded in writing by the FBI, except that the agreement must be re-accomplished annually. If the State or municipal government, law enforcement agency, and prosecutor's office do not all agree to the annual renewal, or the annual agreement period otherwise expires (one year from the acknowledged and agreed date) without a completed renewal, or any one of them do not abide by the conditions of the agreement, the FBI reserves the right to rescind its endorsement of the law enforcement agency's acquisition and use of the equipment and to take all lawful action as indicated in condition 11. above.

13. The signing State or municipal government official and the signing law enforcement agency official affirm that any successors to their positions will be notified about this agreement and of the requirement to adhere to the conditions herein to ensure the agency's continued use of cell site simulator/pen register equipment/technology. Similarly, the signing law enforcement agency official affirms that any successor to the position of the chief prosecuting official will be notified of the separate prosecutorial non-disclosure agreement and of the requirement to adhere to that agreement in order to ensure the law enforcement agency's continued use of cell site simulator/pen register equipment/technology. In any instance of succession in this context, the law enforcement agency official will notify the FBI as indicated in condition 10. above.

The acceptance of the above conditions shall be evidenced by the signatures below of authorized representatives of the [redacted] and [redacted]

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b7E -1

Sincerely,

[redacted signature box]

Operational Technology Division
Federal Bureau of Investigation

Acknowledged and agreed to this 1ST day of December, 2014. Renewal is due in one year.

[redacted signature box]
[redacted signature box]

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[redacted signature box]
[redacted signature box]



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535-0001

December 4, 2014




b3 -1
b7E -1

Re: Acquisition of Cell Site Simulator/Pen Register Equipment/Technology
and Non-Disclosure Obligations

Dear 

b3 -1
b7E -1

We have been notified of the  request for acquisition of certain cell site simulator/pen register equipment providing cellular device locating and identifying capability. Consistent with the condition on the equipment authorization granted by the Federal Communications Commission, State and local law enforcement agencies must coordinate with the Federal Bureau of Investigation (FBI) to complete this non-disclosure agreement in order to acquire and use cell site simulator/pen register equipment/technology.

Law enforcement agencies rely on cellular device locating and identifying capability to help meet their law enforcement and public safety responsibilities. Disclosure of certain information about cell site simulator/pen register equipment and techniques to the public, such information referred to by the Federal Government as Law Enforcement Sensitive (LES), would allow adversaries of law enforcement to diminish or thwart law enforcement efforts, thereby enabling such adversaries to evade detection and circumvent the law. Disclosure of even minor details about this technology or its use may reveal more information than its apparent insignificance suggests because, much like a jigsaw puzzle, each detail may aid in piecing together other bits of information even when the individual piece is not of obvious importance in

REVISION: 2

Page 1 of 7

21-cv-10719(FBI)-113

itself. Thus, disclosure of what appears to be innocuous information about cell site simulators would provide adversaries with critical information about the capabilities, limitations, and circumstances of their use, and would allow those adversaries to accumulate information and draw conclusions about the use and technical capabilities of the technology. In turn, this would provide them the information necessary to develop defensive technology, modify their behaviors, and otherwise take countermeasures designed to thwart the use of this technology in order to evade detection by law enforcement and circumvent the law. Moreover, the same techniques, equipment, and tools used in criminal cases are often used in counterterrorism and counterintelligence investigations. Thus, compromise of the law enforcement community's investigational equipment and methods in a criminal case or a public records disclosure could have a significant detrimental impact on the national security of the United States.

Due to these concerns, the FBI has consistently asserted that the details concerning the use, implementation and application of cell site simulator technology is both law enforcement sensitive and protected homeland security information, and any disclosure could easily impair the use of this important investigative method. In recognition of this vulnerability, the FBI has, as a matter of policy, protected this category of electronic surveillance equipment and technique from disclosure, directing its agents that while general facts that a surveillance or location operation was conducted in connection with a specific case may be disclosed, neither details as to the equipment's operation nor the tradecraft involved may be disclosed. *See United States v. Rigmaiden*, 845 F.Supp. 982 (D.Ariz. 2012); *United States v. Garey*, 2004 WL 2663023 (M.D.Ga. Nov. 15, 2004).

As mentioned earlier, any information concerning cell site simulator equipment or technology (including, but not limited to information about the operation of the equipment or technology itself, limitations or capabilities of the equipment or technology, any training materials concerning the capabilities or technology, or tradecraft required to operate the equipment) authorized by the FBI to be provided to a state law enforcement agency is considered protected homeland security information under the Homeland Security Act ("HSA"). Under 6 U.S.C. § 482(e), homeland security information "obtained by a State or local government from a Federal agency under this section shall remain under the control of the Federal agency, and a

State or local law authorizing or requiring such government to disclose information shall not apply to such information.” The HSA defines “homeland security information” as information that relates to the ability to prevent, interdict, or disrupt terrorist activity; information that would improve the identification or investigation of a suspected terrorist or terrorist organization; or information that would improve the response to a terrorist act. *See* 6 U.S.C. §§ 482(f)(1)(B)-(D). Cell site simulator technology meets all three criteria. Accordingly, by signing this agreement, your agency agrees and understands that disclosure of protected homeland security information is specifically prohibited under Federal law, and that this law expressly preempts state and local disclosure laws under the Supremacy Clause (Article VI, clause 2) of the United States Constitution. *See, e.g., Lorillard Tobacco Co. v. Reilly*, 533 U.S. 525, 541 (2001) (as a general principle, Federal law preempts State law where Congress has said so explicitly).

Finally, by entering into this agreement, you acknowledge that you understand cell site simulator technology is a regulated defense article on the United States Munitions List (“USML”). *See* 22 C.F.R. § 121.1(b). As such, technical details concerning this technology are subject to the non-disclosure provisions of the International Traffic In Arms Regulations (“ITAR”), 22 C.F.R., Parts 120-130. The ITAR implements the Arms Export Control Act, 22 U.S.C. § 2778, and Executive Order 13,637, which control the export and import of defense-related articles and services listed on the USML. Because this equipment is explicitly governed by the ITAR, 22 C.F.R. § 123.1 requires anyone to obtain a license from the Department of State prior to making an export. Notably, technical information does not have to leave the borders of the United States to be deemed an export subject to the regulation. *See* 22 C.F.R. § 120.17 (defining an export as the disclosure of technical data about a defense article to a foreign national, even while located in the United States). Consequently, if a State or local government disseminates any part of the technical information to an entity knowing that the entity intends to or is likely to publish or further disseminate the information in some fashion that would make it accessible to non-U.S. citizens, or that the requesting entity employs or has any non-U.S. citizens present at its offices, this could constitute a violation of the Arms Control Export Act. Unauthorized disclosure of ITAR-controlled information is a felony punishable by up to 20 years imprisonment and up to \$1 million per occurrence. *See* 22 C.F.R., Part 127.

Accordingly, to preserve the continued efficacy of the capability for the Law Enforcement Community, the [REDACTED] agrees to the following conditions in connection with the [REDACTED] acquisition and use of the cell site simulator/pen register equipment/technology:

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1. The signing chief prosecuting official (CPO) affirms that he or she has the authority to lawfully obligate his or her agency to the conditions of this agreement. Moreover, the official affirms that appropriate legal counsel has determined the nondisclosure obligations herein are defensible under State law, as possibly augmented by Federal statutory protections, such as might be necessary for public records access requests, and that the agency will itself perform due diligence in meeting its nondisclosure obligations as and when necessary.
2. The signing CPO affirms that the above-named law enforcement agency's acquisition and use of cellular device identifying and locating capability is conditioned on this separate written non-disclosure agreement with the FBI. Furthermore, the CPO agrees that, after exhaustion of all other lawful means, including implementing advice and assistance from the FBI, the prosecuting agency will, at the request of the FBI, seek dismissal of the case in lieu of using or providing, or allowing others to use or provide, any sensitive information concerning the cell site simulator/pen register equipment/technology in criminal litigation.
3. The signing CPO affirms that the above-named law enforcement agency has statutory authority to lawfully employ this technology in support of public safety operations or criminal investigations.
4. The signing CPO affirms that he or she understands and acknowledges that this equipment, under Federal law, functions as a pen register device as defined in 18 U.S.C. §3127(3), and that 18 U.S.C. §3121(a) prohibits any person, including law enforcement, from operating a pen register device without first obtaining a court order, or having emergency pen register authority under either State or Federal law, as applicable.

5. The CPO's agency may, without first obtaining prior approval from the FBI, confirm or disclose in public for official business only, including for the purpose of obtaining relevant legal authority, the following: 1) the above-named law enforcement agency has cell site simulator/pen register equipment (without disclosing make and model) that provides the capability to locate or identify a cellular device, 2) a description of the legal authority relied upon for using the capability, 3) a description not containing LES information (see conditions 6. and 7. below) of the above-named law enforcement agency's policies or practices that ensure legal compliance and protection of third party privacy rights, 4) the fact that the capability might cause temporary disruption of service for certain cellular devices in the operating area, 5) that the equipment was used to determine general location information about the target cellular device, and 6) that the capability is a sensitive investigative technique so further details are protected and will not be publicly disclosed or confirmed. Note: The preceding provisions shall be narrowly and strictly construed. Any questions regarding interpretation or scope of these provisions must be addressed with the FBI prior to disclosure.

6. Except for the strictly constructed permission in condition 5. above or for necessary deliberations between relevant officials necessary for coordination of this nondisclosure agreement, criminal or civil litigation discovery considerations, or public records access request processing, in which the exercise of due diligence to protect LES information and timely notice to the FBI pursuant to this agreement is presumed, the prosecuting agency will not, absent written FBI approval, distribute, disseminate, disclose, or otherwise confirm any LES information, as determined by the FBI, concerning the cell site simulator/pen register equipment/technology to the public, including to any non-law enforcement individuals or agencies not otherwise part of this agreement. These restrictions include, but are not limited to, tradecraft, technical details, functional limitations or vulnerabilities, manufacturer, model name, hardware, software, operating manuals, related technical documentation (including technical/engineering descriptions and capabilities), line item costs, or related entries in acquisition, funding, grant, or

procurement documents, such documents often being susceptible to public disclosure by State or municipal financial authorities.

7. The signing CPO affirms on behalf of her or his agency that questions about or determinations of what constitutes LES or protected homeland security information will be deferred to the FBI. If the prosecuting agency receives a request or order to disclose any information about the cell site simulator equipment/technology, or learns of such anticipated activity, an appropriate official will immediately notify the FBI in order to allow sufficient time for the FBI to assist in protecting the equipment/technology.

All notifications or inquiries regarding this agreement and the subject capability shall be directed to the attention of:



Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A
Quantico, Virginia 22135

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8. The signing CPO understands and acknowledges that the above-named law enforcement agency's approval to acquire and use the cell site simulator is expressly conditioned on all relevant parties' execution of and adherence to this non-disclosure agreement with the FBI. In the event that the FBI determines the any party is failing to abide by the conditions in this agreement, the FBI may notify the vendor/manufacture to discontinue services for, or disable, the agency's cell site simulator/pen register equipment.
9. Once signed, the conditions of this agreement remain in effect until rescinded in writing by the FBI, except that the agreement must be re-accomplished annually. If the State or

municipal government, law enforcement agency, and prosecutor's office do not all agree to the annual renewal, or the annual agreement period otherwise expires (one year from the acknowledged and agreed date) without a completed renewal, or any one of them do not abide by the conditions of the agreement, the FBI reserves the right to rescind its endorsement of the law enforcement agency's acquisition and use of the equipment and to take all lawful action as indicated in condition 8. above.

10. The CPO affirms that any successor to her or his position will be notified about this agreement and of the requirement to adhere to the conditions herein to ensure the above-named law enforcement agency's continued use of cell site simulator/pen register equipment/technology. In any instance of succession in this context, the CPO's agency will notify the FBI as indicated in condition 7. above.

The acceptance of the above conditions shall be evidenced by the signature below of the authorized representative of the

b3 -1
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Sincerely,

Operational Technology Division
Federal Bureau of Investigation

Acknowledged and agreed to this 23rd day of December, 2014. Renewal is due in one year.

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[Redacted]

March 25, 2014

[Redacted]
Operational Technology Division
Federal Bureau of Investigation

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b7E -1

Attn: [Redacted]
Federal Bureau of Investigation

Re: Addendum to February 15, 2012 "Acquisition of Wireless Collection
Equipment/Technology and Non-Disclosure Obligation"

Continued from Page 6 of 6:

The [Redacted] acceptance of the above conditions shall be evidenced by the additional signatures below of an authorized representative and wireless collection equipment operators of the [Redacted].

b3 -1
b7E -1

Having read and understood the agreement in its entirety, I agree to adhere completely to the rules and implications of this Non-Disclosure Obligation.

Acknowledged and agreed to this 25th day of March, 2014.

[Redacted Signature]

[Redacted]

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[Redacted]

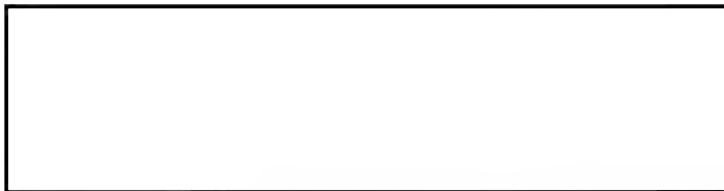


U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535-0001


December 1, 2014



b3 -1
b7E -1

Re: Acquisition of Cell Site Simulator/Pen Register Equipment/Technology
and Non-Disclosure Obligations

Dear 

We have been notified of the  request for acquisition of certain cell site simulator/pen register equipment providing cellular device locating and identifying capability. Consistent with the condition on the equipment authorization granted by the Federal Communications Commission, State and local law enforcement agencies must coordinate with the Federal Bureau of Investigation (FBI) to complete this non-disclosure agreement in order to acquire and use cell site simulator/pen register equipment/technology.

b3 -1
b7E -1

Law enforcement agencies rely on cellular device locating and identifying capability to help meet their law enforcement and public safety responsibilities. Disclosure of certain information about cell site simulator/pen register equipment and techniques to the public, such information referred to by the Federal Government as Law Enforcement Sensitive (LES), would allow adversaries of law enforcement to diminish or thwart law enforcement efforts, thereby enabling such adversaries to evade detection and circumvent the law. Disclosure of even minor details about this technology or its use may reveal more information than its apparent insignificance suggests because, much like a jigsaw puzzle, each detail may aid in piecing together other bits of information even when the individual piece is not of obvious importance in

itself. Thus, disclosure of what appears to be innocuous information about cell site simulators would provide adversaries with critical information about the capabilities, limitations, and circumstances of their use, and would allow those adversaries to accumulate information and draw conclusions about the use and technical capabilities of the technology. In turn, this would provide them the information necessary to develop defensive technology, modify their behaviors, and otherwise take countermeasures designed to thwart the use of this technology in order to evade detection by law enforcement and circumvent the law. Moreover, the same techniques, equipment, and tools used in criminal cases are often used in counterterrorism and counterintelligence investigations. Thus, compromise of the law enforcement community's investigational equipment and methods in a criminal case or a public records disclosure could have a significant detrimental impact on the national security of the United States.

Due to these concerns, the FBI has consistently asserted that the details concerning the use, implementation and application of cell site simulator technology is both law enforcement sensitive and protected homeland security information, and any disclosure could easily impair the use of this important investigative method. In recognition of this vulnerability, the FBI has, as a matter of policy, protected this category of electronic surveillance equipment and technique from disclosure, directing its agents that while general facts that a surveillance or location operation was conducted in connection with a specific case may be disclosed, neither details as to the equipment's operation nor the tradecraft involved may be disclosed. *See United States v. Rigmaiden*, 845 F.Supp. 982 (D.Ariz. 2012); *United States v. Garey*, 2004 WL 2663023 (M.D.Ga. Nov. 15, 2004).

As mentioned earlier, any information concerning cell site simulator equipment or technology (including, but not limited to information about the operation of the equipment or technology itself, limitations or capabilities of the equipment or technology, any training materials concerning the capabilities or technology, or tradecraft required to operate the equipment) authorized by the FBI to be provided to a state law enforcement agency is considered protected homeland security information under the Homeland Security Act ("HSA"). Under 6 U.S.C. § 482(e), homeland security information "obtained by a State or local government from a Federal agency under this section shall remain under the control of the Federal agency, and a

State or local law authorizing or requiring such government to disclose information shall not apply to such information.” The HSA defines “homeland security information” as information that relates to the ability to prevent, interdict, or disrupt terrorist activity; information that would improve the identification or investigation of a suspected terrorist or terrorist organization; or information that would improve the response to a terrorist act. *See* 6 U.S.C. §§ 482(f)(1)(B)-(D). Cell site simulator technology meets all three criteria. Accordingly, by signing this agreement, your agency agrees and understands that disclosure of protected homeland security information is specifically prohibited under Federal law, and that this law expressly preempts state and local disclosure laws under the Supremacy Clause (Article VI, clause 2) of the United States Constitution. *See, e.g., Lorillard Tobacco Co. v. Reilly*, 533 U.S. 525, 541 (2001) (as a general principle, Federal law preempts State law where Congress has said so explicitly).

Finally, by entering into this agreement, you acknowledge that you understand cell site simulator technology is a regulated defense article on the United States Munitions List (“USML”). *See* 22 C.F.R. § 121.1(b). As such, technical details concerning this technology are subject to the non-disclosure provisions of the International Traffic In Arms Regulations (“ITAR”), 22 C.F.R., Parts 120-130. The ITAR implements the Arms Export Control Act, 22 U.S.C. § 2778, and Executive Order 13,637, which control the export and import of defense-related articles and services listed on the USML. Because this equipment is explicitly governed by the ITAR, 22 C.F.R. § 123.1 requires anyone to obtain a license from the Department of State prior to making an export. Notably, technical information does not have to leave the borders of the United States to be deemed an export subject to the regulation. *See* 22 C.F.R. § 120.17 (defining an export as the disclosure of technical data about a defense article to a foreign national, even while located in the United States). Consequently, if a State or local government disseminates any part of the technical information to an entity knowing that the entity intends to or is likely to publish or further disseminate the information in some fashion that would make it accessible to non-U.S. citizens, or that the requesting entity employs or has any non-U.S. citizens present at its offices, this could constitute a violation of the Arms Control Export Act. Unauthorized disclosure of ITAR-controlled information is a felony punishable by up to 20 years imprisonment and up to \$1 million per occurrence. *See* 22 C.F.R., Part 127.

Accordingly, to preserve the continued efficacy of the capability for the Law Enforcement Community, the Department of Justice agrees to the following conditions in connection with the [REDACTED] acquisition and use of the cell site simulator/pen register equipment/technology:

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1. The signing chief prosecuting official (CPO) affirms that he or she has the authority to lawfully obligate his or her agency to the conditions of this agreement. Moreover, the official affirms that appropriate legal counsel has determined the nondisclosure obligations herein are defensible under State law, as possibly augmented by Federal statutory protections, such as might be necessary for public records access requests, and that the agency will itself perform due diligence in meeting its nondisclosure obligations as and when necessary.
2. The signing CPO affirms that the above-named law enforcement agency's acquisition and use of cellular device identifying and locating capability is conditioned on this separate written non-disclosure agreement with the FBI. Furthermore, the CPO agrees that, after exhaustion of all other lawful means, including implementing advice and assistance from the FBI, the prosecuting agency will, at the request of the FBI, seek dismissal of the case in lieu of using or providing, or allowing others to use or provide, any sensitive information concerning the cell site simulator/pen register equipment/technology in criminal litigation.
3. The signing CPO affirms that the above-named law enforcement agency has statutory authority to lawfully employ this technology in support of public safety operations or criminal investigations.
4. The signing CPO affirms that he or she understands and acknowledges that this equipment, under Federal law, functions as a pen register device as defined in 18 U.S.C. §3127(3), and that 18 U.S.C. §3121(a) prohibits any person, including law enforcement, from operating a pen register device without first obtaining a court order, or having emergency pen register authority under either State or Federal law, as applicable.

5. The CPO's agency may, without first obtaining prior approval from the FBI, confirm or disclose in public for official business only, including for the purpose of obtaining relevant legal authority, the following: 1) the above-named law enforcement agency has cell site simulator/pen register equipment (without disclosing make and model) that provides the capability to locate or identify a cellular device, 2) a description of the legal authority relied upon for using the capability, 3) a description not containing LES information (see conditions 6. and 7. below) of the above-named law enforcement agency's policies or practices that ensure legal compliance and protection of third party privacy rights, 4) the fact that the capability might cause temporary disruption of service for certain cellular devices in the operating area, 5) that the equipment was used to determine general location information about the target cellular device, and 6) that the capability is a sensitive investigative technique so further details are protected and will not be publicly disclosed or confirmed. Note: The preceding provisions shall be narrowly and strictly construed. Any questions regarding interpretation or scope of these provisions must be addressed with the FBI prior to disclosure.

6. Except for the strictly constructed permission in condition 5. above or for necessary deliberations between relevant officials necessary for coordination of this nondisclosure agreement, criminal or civil litigation discovery considerations, or public records access request processing, in which the exercise of due diligence to protect LES information and timely notice to the FBI pursuant to this agreement is presumed, the prosecuting agency will not, absent written FBI approval, distribute, disseminate, disclose, or otherwise confirm any LES information, as determined by the FBI, concerning the cell site simulator/pen register equipment/technology to the public, including to any non-law enforcement individuals or agencies not otherwise part of this agreement. These restrictions include, but are not limited to, tradecraft, technical details, functional limitations or vulnerabilities, manufacturer, model name, hardware, software, operating manuals, related technical documentation (including technical/engineering descriptions and capabilities), line item costs, or related entries in acquisition, funding, grant, or

procurement documents, such documents often being susceptible to public disclosure by State or municipal financial authorities.

7. The signing CPO affirms on behalf of her or his agency that questions about or determinations of what constitutes LES or protected homeland security information will be deferred to the FBI. If the prosecuting agency receives a request or order to disclose any information about the cell site simulator equipment/technology, or learns of such anticipated activity, an appropriate official will immediately notify the FBI in order to allow sufficient time for the FBI to assist in protecting the equipment/technology.

All notifications or inquiries regarding this agreement and the subject capability shall be directed to the attention of:



Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A
Quantico, Virginia 22135

b6 -1
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8. The signing CPO understands and acknowledges that the above-named law enforcement agency's approval to acquire and use the cell site simulator is expressly conditioned on all relevant parties' execution of and adherence to this non-disclosure agreement with the FBI. In the event that the FBI determines the any party is failing to abide by the conditions in this agreement, the FBI may notify the vendor/manufacturer to discontinue services for, or disable, the agency's cell site simulator/pen register equipment.
9. Once signed, the conditions of this agreement remain in effect until rescinded in writing by the FBI, except that the agreement must be re-accomplished annually. If the State or

municipal government, law enforcement agency, and prosecutor's office do not all agree to the annual renewal, or the annual agreement period otherwise expires (one year from the acknowledged and agreed date) without a completed renewal, or any one of them do not abide by the conditions of the agreement, the FBI reserves the right to rescind its endorsement of the law enforcement agency's acquisition and use of the equipment and to take all lawful action as indicated in condition 8. above.

10. The CPO affirms that any successor to her or his position will be notified about this agreement and of the requirement to adhere to the conditions herein to ensure the above-named law enforcement agency's continued use of cell site simulator/pen register equipment/technology. In any instance of succession in this context, the CPO's agency will notify the FBI as indicated in condition 7. above.

The acceptance of the above conditions shall be evidenced by the signature below of the authorized representative of the Department of Justice

Sincerely,



Operational Technology Division
Federal Bureau of Investigation

b3 -1
b6 -1
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b7E -1

Acknowledged and agreed to this 23rd day of December, 2014. Renewal is due in one year.





U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535-0001

December 1, 2014


IN TURN



b3 -1
b7E -1

Re: Acquisition of Cell Site Simulator/Pen Register Equipment/Technology
and Non-Disclosure Obligations

Dear  

We have been notified of the  request for acquisition of certain cell site simulator/pen register equipment providing cellular device locating and identifying capability. Consistent with the condition on the equipment authorization granted by the Federal Communications Commission, State and local law enforcement agencies must coordinate with the Federal Bureau of Investigation (FBI) to complete this non-disclosure agreement in order to acquire and use cell site simulator/pen register equipment/technology.

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Law enforcement agencies rely on cellular device locating and identifying capability to help meet their law enforcement and public safety responsibilities. Disclosure of certain information about cell site simulator/pen register equipment and techniques to the public, such information referred to by the Federal Government as Law Enforcement Sensitive (LES), would

REVISION: 2

allow adversaries of law enforcement to diminish or thwart law enforcement efforts, thereby enabling such adversaries to evade detection and circumvent the law. Disclosure of even minor details about this technology or its use may reveal more information than its apparent insignificance suggests because, much like a jigsaw puzzle, each detail may aid in piecing together other bits of information even when the individual piece is not of obvious importance in itself. Thus, disclosure of what appears to be innocuous information about cell site simulators would provide adversaries with critical information about the capabilities, limitations, and circumstances of their use, and would allow those adversaries to accumulate information and draw conclusions about the use and technical capabilities of the technology. In turn, this would provide them the information necessary to develop defensive technology, modify their behaviors, and otherwise take countermeasures designed to thwart the use of this technology in order to evade detection by law enforcement and circumvent the law. Moreover, the same techniques, equipment, and tools used in criminal cases are often used in counterterrorism and counterintelligence investigations. Thus, compromise of the law enforcement community's investigational equipment and methods in a criminal case or a public records disclosure could have a significant detrimental impact on the national security of the United States.

Due to these concerns, the FBI has consistently asserted that the details concerning the use, implementation and application of cell site simulator technology is both law enforcement sensitive and protected homeland security information, and any disclosure could easily impair the use of this important investigative method. In recognition of this vulnerability, the FBI has, as a matter of policy, protected this category of electronic surveillance equipment and technique from disclosure, directing its agents that while general facts that a surveillance or location operation was conducted in connection with a specific case may be disclosed, neither details as to the equipment's operation nor the tradecraft involved may be disclosed. *See United States v. Rigmaiden*, 845 F.Supp. 982 (D.Ariz. 2012); *United States v. Garey*, 2004 WL 2663023 (M.D.Ga. Nov. 15, 2004).

As mentioned earlier, any information concerning cell site simulator equipment or technology (including, but not limited to information about the operation of the equipment or technology itself, limitations or capabilities of the equipment or technology, any training

materials concerning the capabilities or technology, or tradecraft required to operate the equipment) authorized by the FBI to be provided to your agency is considered protected homeland security information under the Homeland Security Act ("HSA"). Under 6 U.S.C. § 482(e), homeland security information "obtained by a State or local government from a Federal agency under this section shall remain under the control of the Federal agency, and a State or local law authorizing or requiring such government to disclose information shall not apply to such information." The HSA defines "homeland security information" as information that relates to the ability to prevent, interdict, or disrupt terrorist activity; information that would improve the identification or investigation of a suspected terrorist or terrorist organization; or information that would improve the response to a terrorist act. *See* 6 U.S.C. §§ 482(f)(1)(B)-(D). Cell site simulator technology meets all three criteria. Accordingly, by signing this agreement, your agency agrees and understands that disclosure of protected homeland security information is specifically prohibited under Federal law, and that this law expressly preempts state and local disclosure laws under the Supremacy Clause (Article VI, clause 2) of the United States Constitution. *See, e.g., Lorillard Tobacco Co. v. Reilly, 533 U.S. 525, 541 (2001)* (as a general principle, Federal law preempts State law where Congress has said so explicitly).

Finally, by entering into this agreement, you acknowledge that you understand cell site simulator technology is a regulated defense article on the United States Munitions List ("USML"). *See* 22 C.F.R. § 121.1(b). As such, technical details concerning this technology are subject to the non-disclosure provisions of the International Traffic In Arms Regulations ("ITAR"), 22 C.F.R., Parts 120-130. The ITAR implements the Arms Export Control Act, 22 U.S.C. § 2778, and Executive Order 13,637, which control the export and import of defense-related articles and services listed on the USML. Because this equipment is explicitly governed by the ITAR, 22 C.F.R. § 123.1 requires anyone to obtain a license from the Department of State prior to making an export. Notably, technical information does not have to leave the borders of the United States to be deemed an export subject to the regulation. *See* 22 C.F.R. § 120.17 (defining an export as the disclosure of technical data about a defense article to a foreign national, even while located in the United States). Consequently, if a State or local government disseminates any part of the technical information to an entity knowing that the entity intends to or is likely to publish or further disseminate the information in some fashion that would make it

accessible to non-U.S. citizens, or that the requesting entity employs or has any non-U.S. citizens present at its offices, this could constitute a violation of the Arms Control Export Act. Unauthorized disclosure of ITAR-controlled information is a felony punishable by up to 20 years imprisonment and up to \$1 million per occurrence. *See* 22 C.F.R., Part 127.

Accordingly, to preserve the continued efficacy of the capability for the Law Enforcement Community, the [redacted] and [redacted] agree to the following conditions in connection with the acquisition and use of the cell site simulator/pen register equipment/technology:



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1. The signing State or municipal government official affirms that he or she has the authority to lawfully obligate his or her State or municipality to the conditions of this agreement. Moreover, the official affirms that appropriate legal counsel has determined the nondisclosure obligations herein are defensible under State law, as possibly augmented by Federal statutory protections, such as might be necessary for public records access requests, and that the State or municipality will itself perform due diligence in meeting its nondisclosure obligations as and when necessary.
2. The signing law enforcement agency official affirms that he or she has the authority to lawfully obligate his or her agency and its personnel to the conditions of this agreement. Moreover, the official affirms that the law enforcement agency will itself perform due diligence in meeting its nondisclosure obligations as and when necessary.
3. The signing law enforcement agency official affirms that the appropriate chief prosecuting official(s) representing the jurisdiction(s) of possible use of the agency's cellular device identifying and locating capability was (were) notified of the law enforcement agency's intended acquisition of the equipment/technology and he or she (they) indicated an understanding that use of the capability in a specific prosecutorial jurisdiction by the law enforcement agency is conditioned on the chief prosecuting official's separate written non-disclosure agreement with the FBI (notification and request for the separate agreement to be made as indicated in condition 10. below).

Furthermore, the law enforcement agency official agrees that, after exhaustion of all other lawful means, including implementing advice and assistance from the FBI, the law enforcement agency will, at the request of the FBI, seek dismissal of the case with the prosecutorial jurisdiction in lieu of using or providing, or allowing others to use or provide, any sensitive information concerning the cell site simulator/pen register equipment/technology in criminal litigation.

4. The signing law enforcement agency official affirms that the law enforcement agency has statutory authority to lawfully employ this technology and will do so only in support of public safety operations or criminal investigations within State or municipal jurisdictions that are also party to appropriate, related nondisclosure agreements with the FBI. Moreover, the law enforcement agency assumes responsibility for operating the equipment/technology in accordance with State and Federal law and regulation and accepts sole liability for any violations thereof, irrespective of the Federal Bureau of Investigation approval, if any, for the acquisition of the equipment/technology.
5. The signing law enforcement agency official affirms that he or she understands and acknowledges that this equipment, under Federal law, functions as a pen register device as defined in 18 U.S.C. §3127(3), and that 18 U.S.C. §3121(a) prohibits any person, including law enforcement, from operating a pen register device without first obtaining a court order, or having emergency pen register authority under either State or Federal law, as applicable. The signing law enforcement agency official agrees that he or she will not permit the operation of the device without having a court-issued pen register order or emergency pen register authority as outlined in Federal or State law.
6. The signing law enforcement agency official affirms that he or she understands that he or she is prohibited by Federal law from intercepting the content of any communications with a pen register device, and that he or she must use technology reasonably available to the agency to restrict the equipment to recording or decoding electronic or other impulse to the dialing, routing, addressing and signaling information utilized in the processing and transmitting of wire or electronic communications. *See* 18 U.S.C. §3121(c).

7. The signing law enforcement agency official affirms that operators of the equipment meet the operator training standards, identified separately by the FBI, before operating the equipment, are certified by their agency to conduct operations, are notified of the conditions of this agreement, and are legally bound to this agreement by virtue of their employment or through an internal written contract with the agency or State or municipal government.

8. The State or municipal government and/or law enforcement agency may, without first obtaining prior approval from the FBI, confirm or disclose in public for official business only, including for the purpose of obtaining relevant legal authority, the following: 1) the agency has cell site simulator/pen register equipment (without disclosing make and model) that provides the capability to locate or identify a cellular device, 2) a description of the legal authority relied upon for using the capability, 3) a description not containing LES information (see conditions 9. and 10. below) of agency policies or practices that ensure legal compliance and protection of third party privacy rights, 4) the fact that the capability might cause temporary disruption of service for certain cellular devices in the operating area, 5) that the equipment was used to determine general location information about the target cellular device, and 6) that the capability is a sensitive investigative technique so further details are protected and will not be publicly disclosed or confirmed. Note: The preceding provisions shall be narrowly and strictly construed. Any questions regarding interpretation or scope of these provisions must be addressed with the FBI prior to disclosure.


9. Except for the strictly constructed permission in condition 8. above or for necessary deliberations between relevant officials necessary for coordination of this nondisclosure agreement, criminal or civil litigation discovery considerations, or public records access request processing, in which the exercise of due diligence to protect LES information and timely notice to the FBI pursuant to this agreement is presumed, the State or municipal government and law enforcement agency will not, absent written FBI approval, distribute, disseminate, disclose, or otherwise confirm any LES information, as determined by the

FBI, concerning the cell site simulator/pen register equipment/technology to the public, including to any non-law enforcement individuals or agencies not otherwise part of this agreement. These restrictions include, but are not limited to, tradecraft, technical details, functional limitations or vulnerabilities, manufacturer, model name, hardware, software, operating manuals, related technical documentation (including technical/engineering descriptions and capabilities), line item costs, or related entries in acquisition, funding, grant, or procurement documents, such documents often being susceptible to public disclosure by State or municipal financial authorities.

10. The signing State or municipal government official and the signing law enforcement agency official affirm on behalf of their respective organizations that questions about or determinations of what constitutes LES or protected homeland security information will be deferred to the FBI. If the State or municipal government or law enforcement agency receives a request or order to disclose any information about the cell site simulator equipment/technology, or learns of such anticipated activity, an appropriate official will immediately notify the FBI in order to allow sufficient time for the FBI to assist in protecting the equipment/technology.

All notifications or inquiries regarding this agreement and the subject capability shall be directed to the attention of:



Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A
Quantico, Virginia 22135
Telephone 

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11. The signing law enforcement official understands and acknowledges that his or her agency's approval to acquire and use the cell site simulator is expressly conditioned on execution of and adherence to this non-disclosure agreement with the FBI. In the event that the FBI determines the agency is failing to abide by the conditions in this agreement, the FBI may notify the vendor/manufacture to discontinue services for, or disable, the agency's cell site simulator/pen register equipment.
12. Once signed, the conditions of this agreement remain in effect until rescinded in writing by the FBI, except that the agreement must be re-accomplished annually. If the State or municipal government, law enforcement agency, and prosecutor's office do not all agree to the annual renewal, or the annual agreement period otherwise expires (one year from the acknowledged and agreed date) without a completed renewal, or any one of them do not abide by the conditions of the agreement, the FBI reserves the right to rescind its endorsement of the law enforcement agency's acquisition and use of the equipment and to take all lawful action as indicated in condition 11. above.
13. The signing State or municipal government official and the signing law enforcement agency official affirm that any successors to their positions will be notified about this agreement and of the requirement to adhere to the conditions herein to ensure the agency's continued use of cell site simulator/pen register equipment/technology. Similarly, the signing law enforcement agency official affirms that any successor to the position of the chief prosecuting official will be notified of the separate prosecutorial non-disclosure agreement and of the requirement to adhere to that agreement in order to ensure the law enforcement agency's continued use of cell site simulator/pen register equipment/technology. In any instance of succession in this context, the law enforcement agency official will notify the FBI as indicated in condition 10. above.



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b7E -1

The acceptance of the above conditions shall be evidenced by the signatures below of
authorized representatives of the [redacted] and [redacted]

Sincerely,



Operational Technology Division
Federal Bureau of Investigation

Acknowledged and agreed to this 23 day of December, 2014. Renewal is due in one year.



b3 -1
b7E -1



[Redacted]

b3 -1
b7E -1

3 December 2013

In Reply Please Refer to: [Redacted]

Attention: [Redacted] COTR

Subject: Restricted Software Request NDA

[Redacted]

b3 -1
b7E -1

Reference: [Redacted]

Contractor respectfully requests approval to provide [Redacted] capability to the attached state & local law enforcement agency. Per the defined process, please contact this agency to execute the FBI NDA.

Sincerely,

[Redacted Signature]

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b7E -1

b3 -1
b7E -1

[Redacted]

Contact Information:

[Redacted]

b3 -1
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b7C -2
b7E -1

Operator Information:

Senior Executive Level Manager that can accept responsibility for the proper use of [Redacted]
[Redacted] [Redacted]

All individuals that will be operating [Redacted] within the department

[Redacted]

NOTE: Failure to accurately complete this information will result in delay in NDA processing

1 Senior Executive Level Manager that will accept responsibility for the proper use of [redacted]

Full Name as it appears on NDA	Rank/Title	Mailing	Physical	Office	Cellular	Email
[redacted]	[redacted]	[redacted]		[redacted]		[redacted]

2 All individuals that will be operating [redacted] within the department

Full Name as it appears on NDA	Rank/Title	Mailing	Physical	Office	Cellular	Email
[redacted]						

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b7E -1

[Redacted]

b3 -1
b7E -1

July 10, 2013

[Redacted]

Operational Technology Division
Federal Bureau of Investigation

b6 -1
b7C -1

Attn: [Redacted]
Federal Bureau of Investigation

Re: Addendum to January 3, 2013 "Acquisition of Wireless Collection
Equipment/Technology and Non-Disclosure Obligation"

Continued from Page (6) of (8):

The [Redacted] acceptance of the above conditions shall be
evidenced by the additional signatures below of an authorized representative and wireless
collection equipment operators of the [Redacted]

b3 -1
b7E -1

Having read and understood the agreement in its entirety, I agree to adhere completely to
the rules and implications of this Non-Disclosure Obligation.

Acknowledged and agreed to this 10 day of July, 2013.

[Redacted]

b3 -1
b7E -1

[Redacted]

[Redacted]

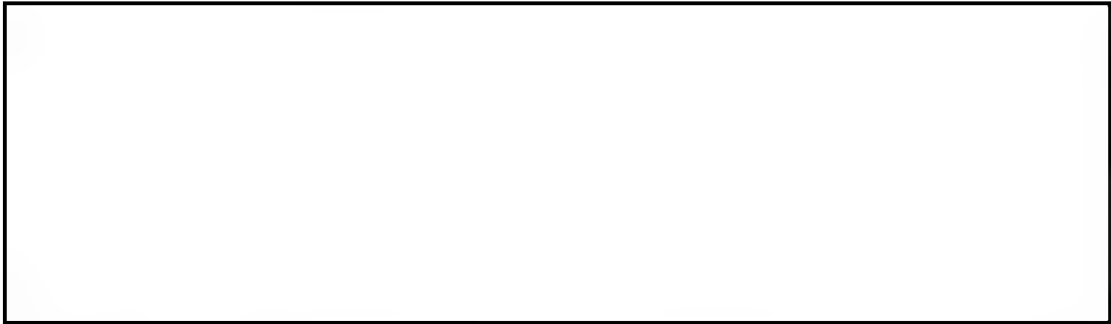
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b7E -1

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b7E -1

Continued from Page (7) of (8):

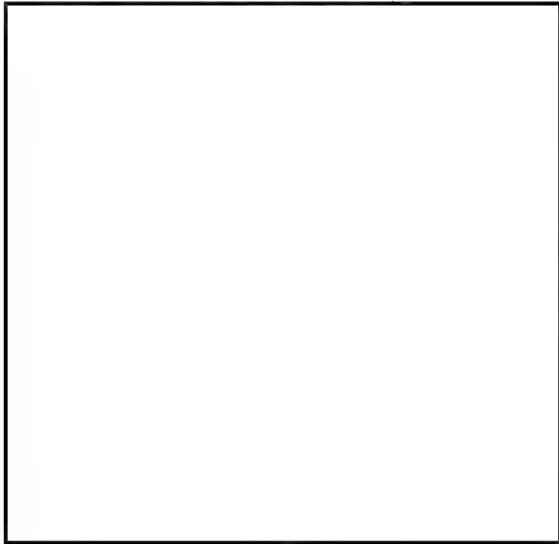
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b7E -1

b3 -1
b7E -1



b3 -1
b7E -1

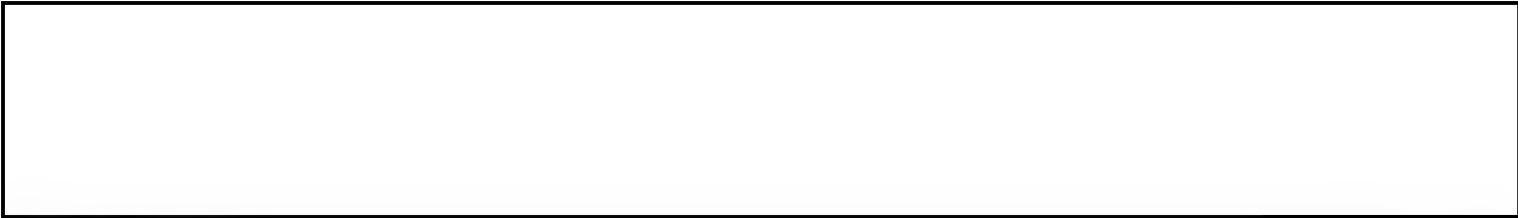
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b7E -1

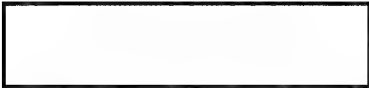


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b3 -1
b7E -1

May 1, 2014





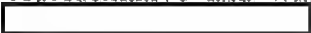
Operational Technology Division
Federal Bureau of Investigation

Attn: 
Federal Bureau of Investigation

b6 -1
b7C -1

Re: Addendum to October 14 2011 NDA "Acquisition of Wireless
Collection Equipment/Technology and Non-Disclosure Obligation"




Continued from Page (1) of (2):

The  acceptance of the above
conditions shall be evidenced by the additional signatures below of an authorized
representative and wireless collection equipment operators of the 


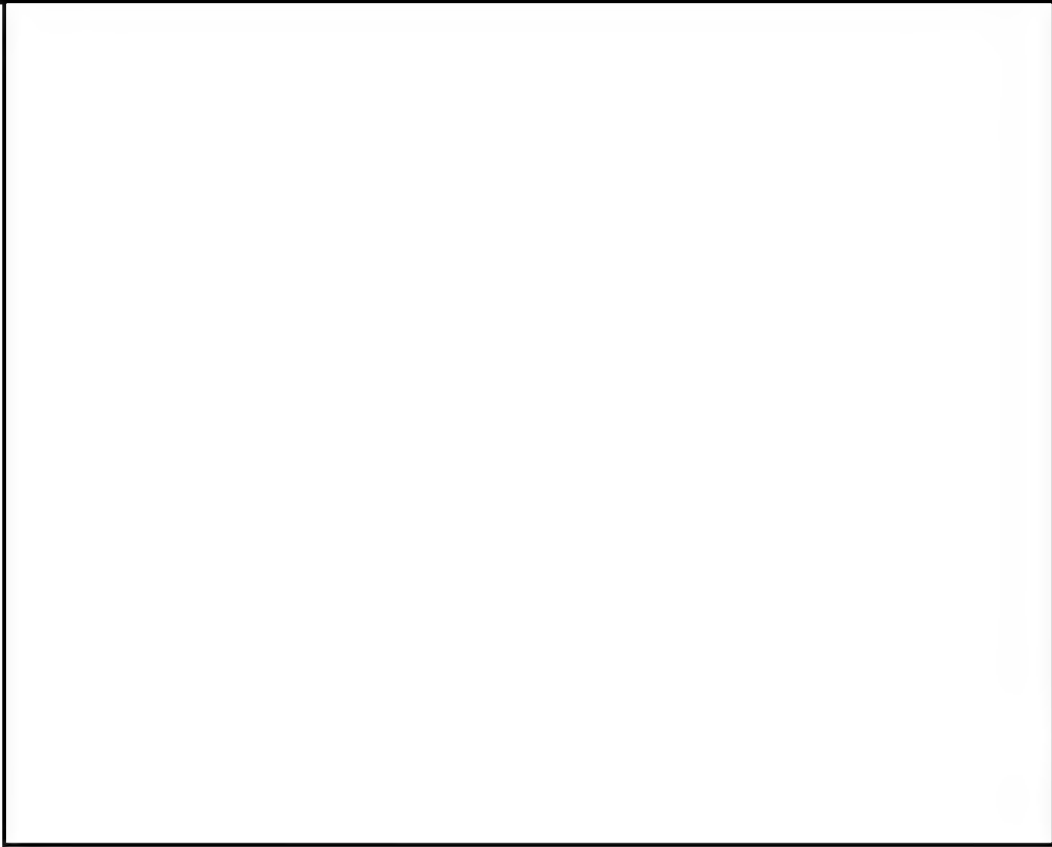
b3 -1
b7E -1

Having read and understood the agreement in its entirety, I agree to adhere
completely to the rules and implications of this Non-Disclosure Obligation.

Acknowledged and agreed to this 1ST day of MAY, 2014.

b3 -1
b7E -1

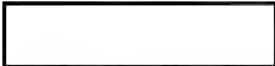


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b7C -2
b7E -1




December 16, 2013

b3 -1
b7E -1





b6 -1
b7C -1

Operational Technology Division
Federal Bureau of Investigation

Attn: 
Federal Bureau of Investigation

Re: Addendum to August 8, 2011, "Acquisition of Wireless
Collection Equipment/Technology and Non-Disclosure
Obligation"

Continued from Page (4) of (4):

The  acceptance of the above conditions shall be evidenced by the additional signatures below of an authorized representative and wireless collection equipment operators of the 

b3 -1
b7E -1



Having read and understood the agreement in its entirety, I agree to adhere completely to the rules and implications of this Non-Disclosure Obligation.

Sincerely,



date 1/10/14

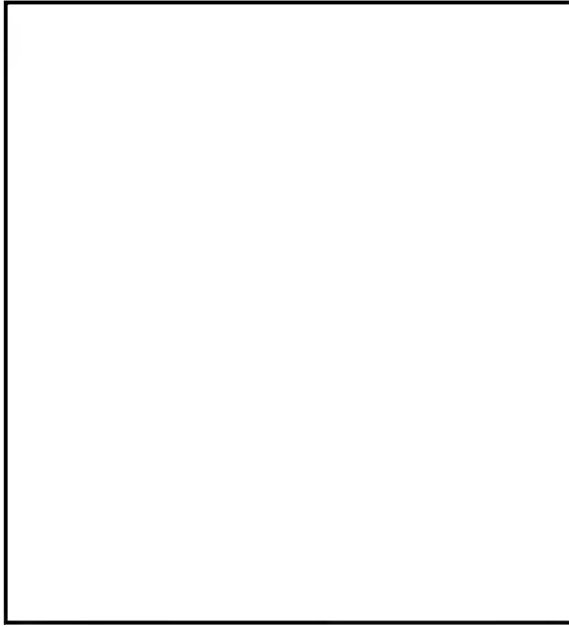
b6 -1
b7C -1

Operational Technology Division
Federal Bureau of Investigation

Acknowledged and agreed to this _____ day of _____, 2013.



b3 -1
b7E -1



b3 -1
b6 -2
b7C -2
b7E -1



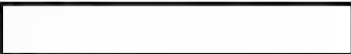
b3 -1
b7E -1

April 28, 2014




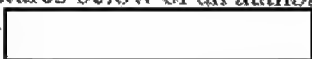
Operational Technology Division
Federal Bureau of Investigation

b6 -1
b7C -1

Attn: 
Federal Bureau of Investigation

Re: Addendum to March 29, 2013 "Acquisition of Wireless Collection
Equipment/Technology and Non-Disclosure Obligation"

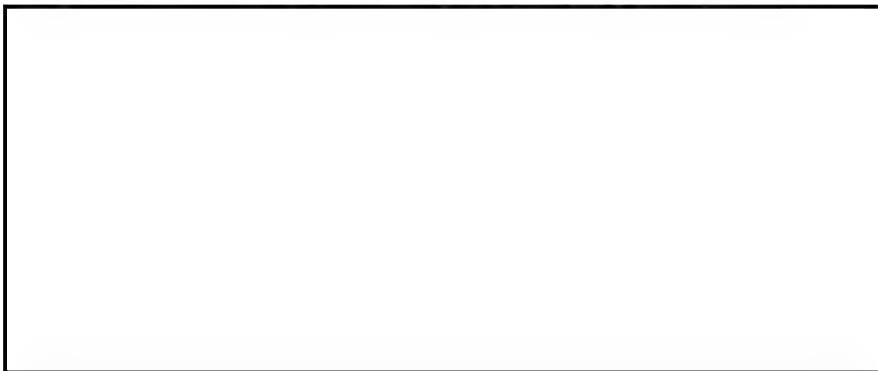
Continued from Page 6 of 6:

The  acceptance of the above conditions shall be evidenced by the
additional signatures below of an authorized representative and wireless collection equipment
operators of the 

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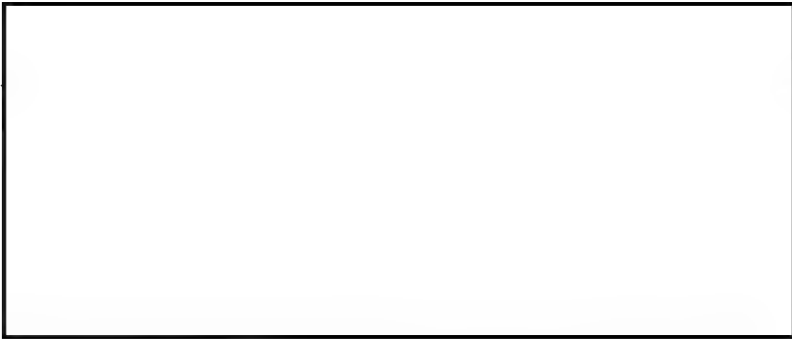
Having read and understood the agreement in its entirety, I agree to adhere completely to the
rules and implications of this Non-Disclosure Obligation.

Acknowledged and agreed to this 28th day of April, 2014.



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April 7, 2015



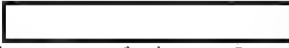

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Operational Technology Division
Federal Bureau of Investigation

Attn: 
Federal Bureau of Investigation

Re: Addendum to March 29, 2013 "Acquisition of Wireless Collection
Equipment/Technology and Non-Disclosure Obligation"

Continued from Page 6 of 6:

The  acceptance of the above conditions shall be evidenced by the
additional signatures below of an authorized representative and wireless collection equipment
operators of the 

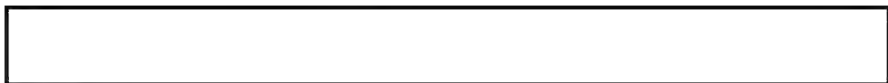
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Having read and understood the agreement in its entirety, I agree to adhere completely to the
rules and implications of this Non-Disclosure Obligation.

Acknowledged and agreed to this 7th day of April, 2015.



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U.S. Department of Justice



Federal Bureau of Investigation

Washington, D.C. 20535-0001

November 1, 2013






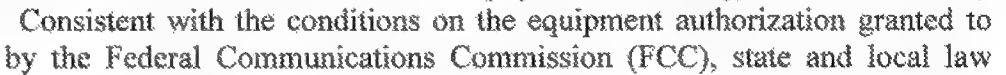
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Re: Acquisition of Wireless Collection Equipment/Technology and Non-Disclosure Obligations

~~LAW ENFORCEMENT SENSITIVE (LES)~~: The information in this document is the property of the Federal Bureau of Investigation (FBI) and may be distributed within the Federal Government (and its contractors), U.S. intelligence, law enforcement, public safety or protection officials and individuals with a need to know. Distribution beyond these entities without FBI Operational Technology Division authorization is prohibited. Precautions should be taken to ensure this information is stored and/or destroyed in a manner that precludes unauthorized access. Information bearing the LES caveat may not be used in legal proceedings without first receiving authorization from the originating agency. Recipients are prohibited from subsequently posting the information marked LES on a website on an unclassified network.

Dear 

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We have been advised by  of the  request for acquisition of certain wireless collection equipment/technology manufactured by  Consistent with the conditions on the equipment authorization granted to  by the Federal Communications Commission (FCC), state and local law enforcement agencies must coordinate with the Federal Bureau of Investigation (FBI) to complete this non-disclosure agreement prior to the acquisition and use of the equipment/technology authorized by the FCC authorization.

As you are aware, law enforcement agencies increasingly rely on wireless collection equipment/technology to conduct lawfully-authorized electronic surveillance. Disclosing the existence of and the capabilities provided by such equipment/technology to the public would reveal sensitive technological capabilities possessed by the law enforcement community and may allow individuals who are the subject of investigation wherein this equipment/technology is used to employ countermeasures to avoid detection by law enforcement. This would not only potentially endanger the lives and physical safety of law enforcement officers and other

individuals, but also adversely impact criminal and national security investigations. That is, disclosure of this information could result in the FBI's inability to protect the public from terrorism and other criminal activity because, through public disclosures, this technology has been rendered essentially useless for future investigations. In order to ensure that such wireless collection equipment/technology continues to be available for use by the law enforcement community, the equipment/technology and any information related to its functions, operation, and use shall be protected from potential compromise by precluding disclosure of this information to the public in any manner including but not limited to: in press releases, in court documents, during judicial hearings, or during other public forums or proceedings. Accordingly, the [redacted] agrees to the following conditions in connection with its acquisition and use of the [redacted]

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1. By entering into this agreement, the [redacted] affirms that it has statutory authority to lawfully employ this technology and will do so only in support of public safety operations or criminal investigations.
2. The [redacted] assumes responsibility for operating the equipment/technology in accordance with Federal law and regulation and accepts sole liability for any violations thereof, irrespective of the Federal Bureau of Investigation approval, if any, for the sale of the equipment/technology.
3. The [redacted] will ensure that operators of the equipment have met the operator training standards identified by the FBI and are certified to conduct operations.
4. The [redacted] will coordinate with the FBI in advance of its use of the wireless collection equipment/technology to ensure de-confliction of respective missions.
5. The [redacted] will not distribute, disseminate, or otherwise disclose any information concerning the wireless collection equipment/technology or any software, operating manuals, or related technical documentation (including its technical/engineering description(s) and capabilities) to the public, including to any non-law enforcement individuals or agencies.
6. The [redacted] will not distribute, disseminate, or otherwise disclose any information concerning the wireless collection equipment/technology or any software, operating manuals, or related technical documentation (including its technical/engineering description(s) and capabilities) provided to it to any other law enforcement or government agency without the prior written approval of the FBI. Prior to any approved distribution, dissemination, or comparable disclosure of any information concerning the wireless collection equipment/technology or any software, manuals, or related technical documentation related to such equipment/technology, all materials shall be marked "Law Enforcement Sensitive. For Official Use Only - Not to be Disclosed Outside of the [redacted]"

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7. The [redacted] shall not, in any civil or criminal proceeding, use or provide any information concerning the [redacted] wireless collection [redacted] its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities) beyond the evidentiary results obtained through the use of the equipment/technology including, but not limited to, during pre-trial matters, in search warrants and related affidavits, in discovery, in response to court ordered disclosure, in other affidavits, in grand jury hearings, in the State's case-in-chief, rebuttal, or on appeal, or in testimony in any phase of civil or criminal trial, without the prior written approval of the FBI. If the [redacted] learns that a District Attorney, prosecutor, or a court is considering or intends to use or provide any information concerning the [redacted] [redacted] its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities) beyond the evidentiary results obtained through the use of the equipment/technology in a manner that will cause law enforcement sensitive information relating to the technology to be made known to the public, the [redacted] [redacted] will immediately notify the FBI in order to allow sufficient time for the FBI to intervene to protect the equipment/technology and information from disclosure and potential compromise.

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Notification shall be directed to the attention of:

[redacted]

Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A
Quantico, Virginia 22135

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[redacted]

and

[redacted]

Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Quantico, Virginia 22135

[redacted]

8. In addition, the [redacted] will, at the request of the FBI, seek dismissal of the case in lieu of using or providing, or allowing others to use or provide, any information concerning the [redacted] [redacted] its associated software, operating manuals, and any related documentation (beyond the evidentiary results obtained through the use of the equipment/technology), if using or providing such information would potentially or actually compromise the equipment/technology. This point supposes that the agency has some control or influence over the prosecutorial process. Where such is not the case, or is limited so as to be inconsequential, it is the FBI's expectation that the law enforcement

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agency identify the applicable prosecuting agency, or agencies, for inclusion in this agreement.

9. A copy of any court order in any proceeding in which the [redacted] is a party directing disclosure of information concerning the [redacted] and any associated software, operating manuals, or related documentation (including its technical/engineering description(s) and capabilities) will immediately be provided to the FBI in order to allow sufficient time for the FBI to intervene to protect the equipment/technology and information from disclosure and potential compromise. Any such court orders shall be directed to the attention of:

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[redacted]
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A
Quantico, Virginia 22135
[redacted]

b6 -1
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and

[redacted]
Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Quantico, Virginia 22135
[redacted]

10. The [redacted] will not publicize its acquisition or use of the [redacted] or any of the capabilities afforded by such equipment/technology to the public, other law enforcement agencies, or other government agencies, including, but not limited to, in any news or press releases, interviews, or direct or indirect statements to the media.

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11. In the event that the [redacted] receives a request pursuant to the Freedom of Information Act (5 U.S.C. § 552) or an equivalent state or local law, the civil or criminal discovery process, or other judicial, legislative, or administrative process, to disclose information concerning the [redacted] its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities), the [redacted] will immediately notify the FBI of any such request telephonically and in writing in order to allow sufficient time for the FBI to seek to prevent disclosure through appropriate channels. Notification shall be directed to the attention of:

[Redacted]

Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A
Quantico, Virginia 22135

[Redacted]

b6 -1
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and

[Redacted]

Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Quantico, Virginia 22135

[Redacted]

The [redacted] acceptance of the above conditions shall be evidenced by the signatures below of an authorized representative and wireless collection equipment operators of the [redacted]

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Sincerely,

[redacted signature box]

Operational Technology Division
Federal Bureau of Investigation

Acknowledged and agreed to this 1st day of NOVEMBER, 2013.

[redacted signature box]

[redacted signature box]

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U.S. Department of Justice

Federal Bureau of Investigation



Washington, D.C. 20535-0001

April 5, 2013



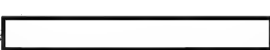



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Re: Acquisition of Wireless Collection Equipment/Technology and Non-Disclosure Obligations

~~LAW ENFORCEMENT SENSITIVE (LES)~~ The information in this document is the property of the Federal Bureau of Investigation (FBI) and may be distributed within the Federal Government (and its contractors), U.S. intelligence, law enforcement, public safety or protection officials and individuals with a need to know. Distribution beyond these entities without FBI Operational Technology Division authorization is prohibited. Precautions should be taken to ensure this information is stored and/or destroyed in a manner that precludes unauthorized access. Information bearing the LES caveat may not be used in legal proceedings without first receiving authorization from the originating agency. Recipients are prohibited from subsequently posting the information marked LES on a website on an unclassified network.

Dear 

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We have been advised by  of the  request for acquisition of certain wireless collection equipment/technology manufactured by . Consistent with the conditions on the equipment authorization granted to  by the Federal Communications Commission (FCC), state and local law enforcement agencies must coordinate with the Federal Bureau of Investigation (FBI) to complete this non-disclosure agreement prior to the acquisition and use of the equipment/technology authorized by the FCC authorization.

As you are aware, law enforcement agencies increasingly rely on wireless collection equipment/technology to conduct lawfully-authorized electronic surveillance. Disclosing the existence of and the capabilities provided by such equipment/technology to the public would reveal sensitive technological capabilities possessed by the law enforcement community and may allow individuals who are the subject of investigation wherein this equipment/technology is used to employ countermeasures to avoid detection by law enforcement. This would not only potentially endanger the lives and physical safety of law enforcement officers and other

individuals, but also adversely impact criminal and national security investigations. That is, disclosure of this information could result in the FBI's inability to protect the public from terrorism and other criminal activity because, through public disclosures, this technology has been rendered essentially useless for future investigations. In order to ensure that such wireless collection equipment/technology continues to be available for use by the law enforcement community, the equipment/technology and any information related to its functions, operation, and use shall be protected from potential compromise by precluding disclosure of this information to the public in any manner including but not limited to: in press releases, in court documents, during judicial hearings, or during other public forums or proceedings. Accordingly, the [redacted] agrees to the following conditions in connection with its acquisition and use of the [redacted]

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1. By entering into this agreement, the [redacted] affirms that it has statutory authority to lawfully employ this technology and will do so only in support of public safety operations or criminal investigations.
2. The [redacted] assumes responsibility for operating the equipment/technology in accordance with Federal law and regulation and accepts sole liability for any violations thereof, irrespective of the Federal Bureau of Investigation approval, if any, for the sale of the equipment/technology.
3. The [redacted] will ensure that operators of the equipment have met the operator training standards identified by the FBI and are certified to conduct operations.
4. The [redacted] will coordinate with the FBI in advance of its use of the wireless collection equipment/technology to ensure de-confliction of respective missions.
5. The [redacted] will not distribute, disseminate, or otherwise disclose any information concerning the wireless collection equipment/technology or any software, operating manuals, or related technical documentation (including its technical/engineering description(s) and capabilities) to the public, including to any non-law enforcement individuals or agencies.
6. The [redacted] will not distribute, disseminate, or otherwise disclose any information concerning the wireless collection equipment/technology or any software, operating manuals, or related technical documentation (including its technical/engineering description(s) and capabilities) provided to it to any other law enforcement or government agency without the prior written approval of the FBI. Prior to any approved distribution, dissemination, or comparable disclosure of any information concerning the wireless collection equipment/technology or any software, manuals, or related technical documentation related to such equipment/technology, all materials shall be marked "Law Enforcement Sensitive, For Official Use Only - Not to be Disclosed Outside of the [redacted]"
7. The [redacted] shall not, in any civil or criminal proceeding, use or provide any information concerning the [redacted]

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[redacted] its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities) beyond the evidentiary results obtained through the use of the equipment/technology including, but not limited to, during pre-trial matters, in search warrants and related affidavits, in discovery, in response to court ordered disclosure, in other affidavits, in grand jury hearings, in the State's case-in-chief, rebuttal, or on appeal, or in testimony in any phase of civil or criminal trial, without the prior written approval of the FBI. If the

[redacted] learns that a District Attorney, prosecutor, or a court is considering or intends to use or provide any information concerning the [redacted]

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[redacted] its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities) beyond the evidentiary results obtained through the use of the equipment/technology in a manner that will cause law enforcement sensitive information relating to the technology to be made known to the public, the [redacted] will immediately notify the FBI in order to allow sufficient time for the FBI to intervene to protect the equipment/technology and information from disclosure and potential compromise.

Notification shall be directed to the attention of:

[redacted]

Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A
Quantico, Virginia 22135

b6 -1
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[redacted]

and

[redacted]

Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Quantico, Virginia 22135

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b7E -1

8. In addition, the [redacted] will, at the request of the FBI, seek dismissal of the case in lieu of using or providing, or allowing others to use or provide, any information concerning the [redacted] its associated software, operating manuals, and any related documentation (beyond the evidentiary results obtained through the use of the equipment/technology), if using or providing such information would potentially or actually compromise the equipment/technology. This point supposes that the agency has some control or influence over the prosecutorial process. Where such is not the case, or is limited so as to be inconsequential, it is the FBI's expectation that the law enforcement agency identify the applicable prosecuting agency, or agencies, for inclusion in this agreement.

9. A copy of any court order in any proceeding in which the [redacted] is a party directing disclosure of information concerning the [redacted] and any associated software, operating manuals, or related documentation (including its technical/engineering description(s) and capabilities) will immediately be provided to the FBI in order to allow sufficient time for the FBI to intervene to protect the equipment/technology and information from disclosure and potential compromise. Any such court orders shall be directed to the attention of:

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[redacted]

Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A
Quantico, Virginia 22135

b6 -1
b7C -1
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[redacted]

and

[redacted]

Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Quantico, Virginia 22135

[redacted]

10. The [redacted] will not publicize its acquisition or use of the [redacted] or any of the capabilities afforded by such equipment/technology to the public, other law enforcement agencies, or other government agencies, including, but not limited to, in any news or press releases, interviews, or direct or indirect statements to the media.

b3 -1
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11. In the event that the [redacted] receives a request pursuant to the Freedom of Information Act (5 U.S.C. § 552) or an equivalent state or local law, the civil or criminal discovery process, or other judicial, legislative, or administrative process, to disclose information concerning the [redacted] its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities), the [redacted] will immediately notify the FBI of any such request telephonically and in writing in order to allow sufficient time for the FBI to seek to prevent disclosure through appropriate channels. Notification shall be directed to the attention of:

[Redacted]

Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A
Quantico, Virginia 22135

b6 -1
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[Redacted]

and

[Redacted]

Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Quantico, Virginia 22135

[Redacted]

The [redacted] acceptance of the above conditions shall be evidenced by the signatures below of an authorized representative and wireless collection equipment operators of the [redacted]

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Sincerely,

[redacted signature box]

Operational Technology Division
Federal Bureau of Investigation

Acknowledged and agreed to this _____ day of _____, 2013.

[Large redacted signature box]

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U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535-0001

February 5, 2015

IN TURN

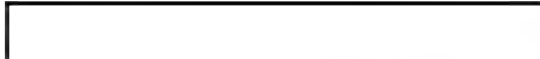


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Re: Acquisition of Cell Site Simulator/Pen Register Equipment/Technology
and Non-Disclosure Obligations.

Dear 

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We have been notified of the  request for acquisition of certain cell site simulator/pen register equipment providing cellular device locating and identifying capability. Consistent with the condition on the equipment authorization granted by the Federal Communications Commission, State and local law enforcement agencies must coordinate with the Federal Bureau of Investigation (FBI) to complete this non-disclosure agreement in order to acquire and use cell site simulator/pen register equipment/technology.

Law enforcement agencies rely on cellular device locating and identifying capability to help meet their law enforcement and public safety responsibilities. Disclosure of certain information about cell site simulator/pen register equipment and techniques to the public, such information referred to by the Federal Government as Law Enforcement Sensitive (LES), would allow adversaries of law enforcement to diminish or thwart law enforcement efforts, thereby enabling such adversaries to evade detection and circumvent the law. Disclosure of even minor details about this technology or its use may reveal more information than its apparent insignificance suggests because, much like a jigsaw puzzle, each detail may aid in piecing

REVISION: 2

Page 1 of 9

21-cv-10719(FBI)-161

together other bits of information even when the individual piece is not of obvious importance in itself. Thus, disclosure of what appears to be innocuous information about cell site simulators would provide adversaries with critical information about the capabilities, limitations, and circumstances of their use, and would allow those adversaries to accumulate information and draw conclusions about the use and technical capabilities of the technology. In turn, this would provide them the information necessary to develop defensive technology, modify their behaviors, and otherwise take countermeasures designed to thwart the use of this technology in order to evade detection by law enforcement and circumvent the law. Moreover, the same techniques, equipment, and tools used in criminal cases are often used in counterterrorism and counterintelligence investigations. Thus, compromise of the law enforcement community's investigational equipment and methods in a criminal case or a public records disclosure could have a significant detrimental impact on the national security of the United States.

Due to these concerns, the FBI has consistently asserted that the details concerning the use, implementation and application of cell site simulator technology is both law enforcement sensitive and protected homeland security information, and any disclosure could easily impair the use of this important investigative method. In recognition of this vulnerability, the FBI has, as a matter of policy, protected this category of electronic surveillance equipment and technique from disclosure, directing its agents that while general facts that a surveillance or location operation was conducted in connection with a specific case may be disclosed, neither details as to the equipment's operation nor the tradecraft involved may be disclosed. *See United States v. Rigmaiden*, 845 F.Supp. 982 (D.Ariz. 2012); *United States v. Garey*, 2004 WL 2663023 (M.D.Ga. Nov. 15, 2004).

As mentioned earlier, any information concerning cell site simulator equipment or technology (including, but not limited to information about the operation of the equipment or technology itself, limitations or capabilities of the equipment or technology, any training materials concerning the capabilities or technology, or tradecraft required to operate the equipment) authorized by the FBI to be provided to your agency is considered protected homeland security information under the Homeland Security Act ("HSA"). Under 6 U.S.C. § 482(e), homeland security information "obtained by a State or local government from a Federal

agency under this section shall remain under the control of the Federal agency, and a State or local law authorizing or requiring such government to disclose information shall not apply to such information.” The HSA defines “homeland security information” as information that relates to the ability to prevent, interdict, or disrupt terrorist activity; information that would improve the identification or investigation of a suspected terrorist or terrorist organization; or information that would improve the response to a terrorist act. *See* 6 U.S.C. §§ 482(f)(1)(B)-(D). Cell site simulator technology meets all three criteria. Accordingly, by signing this agreement, your agency agrees and understands that disclosure of protected homeland security information is specifically prohibited under Federal law, and that this law expressly preempts state and local disclosure laws under the Supremacy Clause (Article VI, clause 2) of the United States Constitution. *See, e.g., Lorillard Tobacco Co. v. Reilly*, 533 U.S. 525, 541 (2001) (as a general principle, Federal law preempts State law where Congress has said so explicitly).

Finally, by entering into this agreement, you acknowledge that you understand cell site simulator technology is a regulated defense article on the United States Munitions List (“USML”). *See* 22 C.F.R. § 121.1(b). As such, technical details concerning this technology are subject to the non-disclosure provisions of the International Traffic In Arms Regulations (“ITAR”), 22 C.F.R., Parts 120-130. The ITAR implements the Arms Export Control Act, 22 U.S.C. § 2778, and Executive Order 13,637, which control the export and import of defense-related articles and services listed on the USML. Because this equipment is explicitly governed by the ITAR, 22 C.F.R. § 123.1 requires anyone to obtain a license from the Department of State prior to making an export. Notably, technical information does not have to leave the borders of the United States to be deemed an export subject to the regulation. *See* 22 C.F.R. § 120.17 (defining an export as the disclosure of technical data about a defense article to a foreign national, even while located in the United States). Consequently, if a State or local government disseminates any part of the technical information to an entity knowing that the entity intends to or is likely to publish or further disseminate the information in some fashion that would make it accessible to non-U.S. citizens, or that the requesting entity employs or has any non-U.S. citizens present at its offices, this could constitute a violation of the Arms Control Export Act. Unauthorized disclosure of ITAR-controlled information is a felony punishable by up to 20 years imprisonment and up to \$1 million per occurrence. *See* 22 C.F.R., Part 127.

Accordingly, to preserve the continued efficacy of the capability for the Law Enforcement Community, the [REDACTED] agree to the following conditions in connection with the acquisition and use of the cell site simulator/pen register equipment/technology:

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1. The signing State or municipal government official affirms that he or she has the authority to lawfully obligate his or her State or municipality to the conditions of this agreement. Moreover, the official affirms that appropriate legal counsel has determined the nondisclosure obligations herein are defensible under State law, as possibly augmented by Federal statutory protections, such as might be necessary for public records access requests, and that the State or municipality will itself perform due diligence in meeting its nondisclosure obligations as and when necessary.
2. The signing law enforcement agency official affirms that he or she has the authority to lawfully obligate his or her agency and its personnel to the conditions of this agreement. Moreover, the official affirms that the law enforcement agency will itself perform due diligence in meeting its nondisclosure obligations as and when necessary.
3. The signing law enforcement agency official affirms that the appropriate chief prosecuting official(s) representing the jurisdiction(s) of possible use of the agency's cellular device identifying and locating capability was (were) notified of the law enforcement agency's intended acquisition of the equipment/technology and he or she (they) indicated an understanding that use of the capability in a specific prosecutorial jurisdiction by the law enforcement agency is conditioned on the chief prosecuting official's separate written non-disclosure agreement with the FBI (notification and request for the separate agreement to be made as indicated in condition 10. below). Furthermore, the law enforcement agency official agrees that, after exhaustion of all other lawful means, including implementing advice and assistance from the FBI, the law enforcement agency will, at the request of the FBI, seek dismissal of the case with the prosecutorial jurisdiction in lieu of using or providing, or allowing others to use or

provide, any sensitive information concerning the cell site simulator/pen register equipment/technology in criminal litigation.

4. The signing law enforcement agency official affirms that the law enforcement agency has statutory authority to lawfully employ this technology and will do so only in support of public safety operations or criminal investigations within State or municipal jurisdictions that are also party to appropriate, related nondisclosure agreements with the FBI. Moreover, the law enforcement agency assumes responsibility for operating the equipment/technology in accordance with State and Federal law and regulation and accepts sole liability for any violations thereof, irrespective of the Federal Bureau of Investigation approval, if any, for the acquisition of the equipment/technology.
5. The signing law enforcement agency official affirms that he or she understands and acknowledges that this equipment, under Federal law, functions as a pen register device as defined in 18 U.S.C. §3127(3), and that 18 U.S.C. §3121(a) prohibits any person, including law enforcement, from operating a pen register device without first obtaining a court order, or having emergency pen register authority under either State or Federal law, as applicable. The signing law enforcement agency official agrees that he or she will not permit the operation of the device without having a court-issued pen register order or emergency pen register authority as outlined in Federal or State law.
6. The signing law enforcement agency official affirms that he or she understands that he or she is prohibited by Federal law from intercepting the content of any communications with a pen register device, and that he or she must use technology reasonably available to the agency to restrict the equipment to recording or decoding electronic or other impulse to the dialing, routing, addressing and signaling information utilized in the processing and transmitting of wire or electronic communications. *See* 18 U.S.C. §3121(c).
7. The signing law enforcement agency official affirms that operators of the equipment meet the operator training standards, identified separately by the FBI, before operating the equipment, are certified by their agency to conduct operations, are notified of the

conditions of this agreement, and are legally bound to this agreement by virtue of their employment or through an internal written contract with the agency or State or municipal government.


8. The State or municipal government and/or law enforcement agency may, without first obtaining prior approval from the FBI, confirm or disclose in public for official business only, including for the purpose of obtaining relevant legal authority, the following: 1) the agency has cell site simulator/pen register equipment (without disclosing make and model) that provides the capability to locate or identify a cellular device, 2) a description of the legal authority relied upon for using the capability, 3) a description not containing LES information (see conditions 9. and 10. below) of agency policies or practices that ensure legal compliance and protection of third party privacy rights, 4) the fact that the capability might cause temporary disruption of service for certain cellular devices in the operating area, 5) that the equipment was used to determine general location information about the target cellular device, and 6) that the capability is a sensitive investigative technique so further details are protected and will not be publicly disclosed or confirmed. Note: The preceding provisions shall be narrowly and strictly construed. Any questions regarding interpretation or scope of these provisions must be addressed with the FBI prior to disclosure.
9. Except for the strictly constructed permission in condition 8. above or for necessary deliberations between relevant officials necessary for coordination of this nondisclosure agreement, criminal or civil litigation discovery considerations, or public records access request processing, in which the exercise of due diligence to protect LES information and timely notice to the FBI pursuant to this agreement is presumed, the State or municipal government and law enforcement agency will not, absent written FBI approval, distribute, disseminate, disclose, or otherwise confirm any LES information, as determined by the FBI, concerning the cell site simulator/pen register equipment/technology to the public, including to any non-law enforcement individuals or agencies not otherwise part of this agreement. These restrictions include, but are not limited to, tradecraft, technical details, functional limitations or vulnerabilities, manufacturer, model name, hardware, software,

operating manuals, related technical documentation (including technical/engineering descriptions and capabilities), line item costs, or related entries in acquisition, funding, grant, or procurement documents, such documents often being susceptible to public disclosure by State or municipal financial authorities.

10. The signing State or municipal government official and the signing law enforcement agency official affirm on behalf of their respective organizations that questions about or determinations of what constitutes LES or protected homeland security information will be deferred to the FBI. If the State or municipal government or law enforcement agency receives a request or order to disclose any information about the cell site simulator equipment/technology, or learns of such anticipated activity, an appropriate official will immediately notify the FBI in order to allow sufficient time for the FBI to assist in protecting the equipment/technology.

All notifications or inquiries regarding this agreement and the subject capability shall be directed to the attention of:



Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A
Quantico, Virginia 22135
Telephone 

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11. The signing law enforcement official understands and acknowledges that his or her agency's approval to acquire and use the cell site simulator is expressly conditioned on execution of and adherence to this non-disclosure agreement with the FBI. In the event that the FBI determines the agency is failing to abide by the conditions in this agreement,

the FBI may notify the vendor/manufacturer to discontinue services for, or disable, the agency's cell site simulator/pen register equipment.

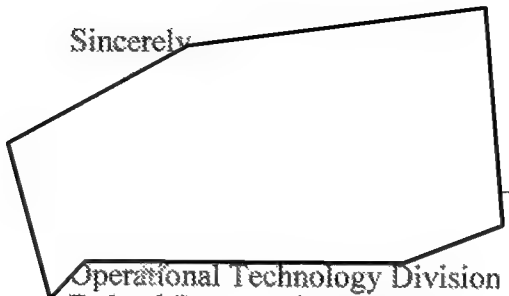
12. Once signed, the conditions of this agreement remain in effect until rescinded in writing by the FBI, except that the agreement must be re-accomplished annually. If the State or municipal government, law enforcement agency, and prosecutor's office do not all agree to the annual renewal, or the annual agreement period otherwise expires (one year from the acknowledged and agreed date) without a completed renewal, or any one of them do not abide by the conditions of the agreement, the FBI reserves the right to rescind its endorsement of the law enforcement agency's acquisition and use of the equipment and to take all lawful action as indicated in condition 11. above.

13. The signing State or municipal government official and the signing law enforcement agency official affirm that any successors to their positions will be notified about this agreement and of the requirement to adhere to the conditions herein to ensure the agency's continued use of cell site simulator/pen register equipment/technology. Similarly, the signing law enforcement agency official affirms that any successor to the position of the chief prosecuting official will be notified of the separate prosecutorial non-disclosure agreement and of the requirement to adhere to that agreement in order to ensure the law enforcement agency's continued use of cell site simulator/pen register equipment/technology. In any instance of succession in this context, the law enforcement agency official will notify the FBI as indicated in condition 10. above.

The acceptance of the above conditions shall be evidenced by the signatures below of authorized representatives of the

b3 -1
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Sincerely,



Operational Technology Division
Federal Bureau of Investigation

Acknowledged and agreed to this 6 day of February, 2015. Renewal is due in one year.



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U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535-0001

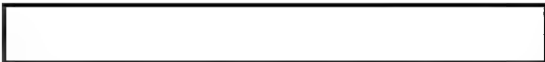
February 5, 2015



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Re: Acquisition of Cell Site Simulator/Pen Register Equipment/Technology
and Non-Disclosure Obligations

Dear 

We have been notified of the  request for acquisition of certain cell site simulator/pen register equipment providing cellular device locating and identifying capability. Consistent with the condition on the equipment authorization granted by the Federal Communications Commission, State and local law enforcement agencies must coordinate with the Federal Bureau of Investigation (FBI) to complete this non-disclosure agreement in order to acquire and use cell site simulator/pen register equipment/technology.

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Law enforcement agencies rely on cellular device locating and identifying capability to help meet their law enforcement and public safety responsibilities. Disclosure of certain information about cell site simulator/pen register equipment and techniques to the public, such information referred to by the Federal Government as Law Enforcement Sensitive (LES), would allow adversaries of law enforcement to diminish or thwart law enforcement efforts, thereby enabling such adversaries to evade detection and circumvent the law. Disclosure of even minor details about this technology or its use may reveal more information than its apparent insignificance suggests because, much like a jigsaw puzzle, each detail may aid in piecing together other bits of information even when the individual piece is not of obvious importance in

itself. Thus, disclosure of what appears to be innocuous information about cell site simulators would provide adversaries with critical information about the capabilities, limitations, and circumstances of their use, and would allow those adversaries to accumulate information and draw conclusions about the use and technical capabilities of the technology. In turn, this would provide them the information necessary to develop defensive technology, modify their behaviors, and otherwise take countermeasures designed to thwart the use of this technology in order to evade detection by law enforcement and circumvent the law. Moreover, the same techniques, equipment, and tools used in criminal cases are often used in counterterrorism and counterintelligence investigations. Thus, compromise of the law enforcement community's investigational equipment and methods in a criminal case or a public records disclosure could have a significant detrimental impact on the national security of the United States.

Due to these concerns, the FBI has consistently asserted that the details concerning the use, implementation and application of cell site simulator technology is both law enforcement sensitive and protected homeland security information, and any disclosure could easily impair the use of this important investigative method. In recognition of this vulnerability, the FBI has, as a matter of policy, protected this category of electronic surveillance equipment and technique from disclosure, directing its agents that while general facts that a surveillance or location operation was conducted in connection with a specific case may be disclosed, neither details as to the equipment's operation nor the tradecraft involved may be disclosed. *See United States v. Rigmaiden*, 845 F.Supp. 982 (D.Ariz. 2012); *United States v. Garey*, 2004 WL 2663023 (M.D.Ga. Nov. 15, 2004).

As mentioned earlier, any information concerning cell site simulator equipment or technology (including, but not limited to information about the operation of the equipment or technology itself, limitations or capabilities of the equipment or technology, any training materials concerning the capabilities or technology, or tradecraft required to operate the equipment) authorized by the FBI to be provided to a state law enforcement agency is considered protected homeland security information under the Homeland Security Act ("HSA"). Under 6 U.S.C. § 482(e), homeland security information "obtained by a State or local government from a Federal agency under this section shall remain under the control of the Federal agency, and a

State or local law authorizing or requiring such government to disclose information shall not apply to such information.” The HSA defines “homeland security information” as information that relates to the ability to prevent, interdict, or disrupt terrorist activity; information that would improve the identification or investigation of a suspected terrorist or terrorist organization; or information that would improve the response to a terrorist act. *See* 6 U.S.C. §§ 482(f)(1)(B)-(D). Cell site simulator technology meets all three criteria. Accordingly, by signing this agreement, your agency agrees and understands that disclosure of protected homeland security information is specifically prohibited under Federal law, and that this law expressly preempts state and local disclosure laws under the Supremacy Clause (Article VI, clause 2) of the United States Constitution. *See, e.g., Lorillard Tobacco Co. v. Reilly*, 533 U.S. 525, 541 (2001) (as a general principle, Federal law preempts State law where Congress has said so explicitly).

Finally, by entering into this agreement, you acknowledge that you understand cell site simulator technology is a regulated defense article on the United States Munitions List (“USML”). *See* 22 C.F.R. § 121.1(b). As such, technical details concerning this technology are subject to the non-disclosure provisions of the International Traffic In Arms Regulations (“ITAR”), 22 C.F.R., Parts 120-130. The ITAR implements the Arms Export Control Act, 22 U.S.C. § 2778, and Executive Order 13,637, which control the export and import of defense-related articles and services listed on the USML. Because this equipment is explicitly governed by the ITAR, 22 C.F.R. § 123.1 requires anyone to obtain a license from the Department of State prior to making an export. Notably, technical information does not have to leave the borders of the United States to be deemed an export subject to the regulation. *See* 22 C.F.R. § 120.17 (defining an export as the disclosure of technical data about a defense article to a foreign national, even while located in the United States). Consequently, if a State or local government disseminates any part of the technical information to an entity knowing that the entity intends to or is likely to publish or further disseminate the information in some fashion that would make it accessible to non-U.S. citizens, or that the requesting entity employs or has any non-U.S. citizens present at its offices, this could constitute a violation of the Arms Control Export Act. Unauthorized disclosure of ITAR-controlled information is a felony punishable by up to 20 years imprisonment and up to \$1 million per occurrence. *See* 22 C.F.R., Part 127.

Accordingly, to preserve the continued efficacy of the capability for the Law Enforcement Community, the [REDACTED] agrees to the following conditions in connection with the [REDACTED] acquisition and use of the cell site simulator/pen register equipment/technology:

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1. The signing chief prosecuting official (CPO) affirms that he or she has the authority to lawfully obligate his or her agency to the conditions of this agreement. Moreover, the official affirms that appropriate legal counsel has determined the nondisclosure obligations herein are defensible under State law, as possibly augmented by Federal statutory protections, such as might be necessary for public records access requests, and that the agency will itself perform due diligence in meeting its nondisclosure obligations as and when necessary.
2. The signing CPO affirms that the above-named law enforcement agency's acquisition and use of cellular device identifying and locating capability is conditioned on this separate written non-disclosure agreement with the FBI. Furthermore, the CPO agrees that, after exhaustion of all other lawful means, including implementing advice and assistance from the FBI, the prosecuting agency will, at the request of the FBI, seek dismissal of the case in lieu of using or providing, or allowing others to use or provide, any sensitive information concerning the cell site simulator/pen register equipment/technology in criminal litigation.
3. The signing CPO affirms that the above-named law enforcement agency has statutory authority to lawfully employ this technology in support of public safety operations or criminal investigations.
4. The signing CPO affirms that he or she understands and acknowledges that this equipment, under Federal law, functions as a pen register device as defined in 18 U.S.C. §3127(3), and that 18 U.S.C. §3121(a) prohibits any person, including law enforcement, from operating a pen register device without first obtaining a court order, or having emergency pen register authority under either State or Federal law, as applicable.

5. The CPO's agency may, without first obtaining prior approval from the FBI, confirm or disclose in public for official business only, including for the purpose of obtaining relevant legal authority, the following: 1) the above-named law enforcement agency has cell site simulator/pen register equipment (without disclosing make and model) that provides the capability to locate or identify a cellular device, 2) a description of the legal authority relied upon for using the capability, 3) a description not containing LES information (see conditions 6. and 7. below) of the above-named law enforcement agency's policies or practices that ensure legal compliance and protection of third party privacy rights, 4) the fact that the capability might cause temporary disruption of service for certain cellular devices in the operating area, 5) that the equipment was used to determine general location information about the target cellular device, and 6) that the capability is a sensitive investigative technique so further details are protected and will not be publicly disclosed or confirmed. Note: The preceding provisions shall be narrowly and strictly construed. Any questions regarding interpretation or scope of these provisions must be addressed with the FBI prior to disclosure.


6. Except for the strictly constructed permission in condition 5. above or for necessary deliberations between relevant officials necessary for coordination of this nondisclosure agreement, criminal or civil litigation discovery considerations, or public records access request processing, in which the exercise of due diligence to protect LES information and timely notice to the FBI pursuant to this agreement is presumed, the prosecuting agency will not, absent written FBI approval, distribute, disseminate, disclose, or otherwise confirm any LES information, as determined by the FBI, concerning the cell site simulator/pen register equipment/technology to the public, including to any non-law enforcement individuals or agencies not otherwise part of this agreement. These restrictions include, but are not limited to, tradecraft, technical details, functional limitations or vulnerabilities, manufacturer, model name, hardware, software, operating manuals, related technical documentation (including technical/engineering descriptions and capabilities), line item costs, or related entries in acquisition, funding, grant, or

procurement documents, such documents often being susceptible to public disclosure by State or municipal financial authorities.

7. The signing CPO affirms on behalf of her or his agency that questions about or determinations of what constitutes LES or protected homeland security information will be deferred to the FBI. If the prosecuting agency receives a request or order to disclose any information about the cell site simulator equipment/technology, or learns of such anticipated activity, an appropriate official will immediately notify the FBI in order to allow sufficient time for the FBI to assist in protecting the equipment/technology.

All notifications or inquiries regarding this agreement and the subject capability shall be directed to the attention of:



Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A
Quantico, Virginia 22135
Telephone 

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8. The signing CPO understands and acknowledges that the above-named law enforcement agency's approval to acquire and use the cell site simulator is expressly conditioned on all relevant parties' execution of and adherence to this non-disclosure agreement with the FBI. In the event that the FBI determines the any party is failing to abide by the conditions in this agreement, the FBI may notify the vendor/manufacture to discontinue services for, or disable, the agency's cell site simulator/pen register equipment.
9. Once signed, the conditions of this agreement remain in effect until rescinded in writing by the FBI, except that the agreement must be re-accomplished annually. If the State or

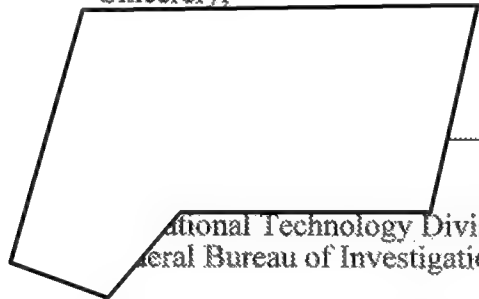
municipal government, law enforcement agency, and prosecutor's office do not all agree to the annual renewal, or the annual agreement period otherwise expires (one year from the acknowledged and agreed date) without a completed renewal, or any one of them do not abide by the conditions of the agreement, the FBI reserves the right to rescind its endorsement of the law enforcement agency's acquisition and use of the equipment and to take all lawful action as indicated in condition 8. above.

10. The CPO affirms that any successor to her or his position will be notified about this agreement and of the requirement to adhere to the conditions herein to ensure the above-named law enforcement agency's continued use of cell site simulator/pen register equipment/technology. In any instance of succession in this context, the CPO's agency will notify the FBI as indicated in condition 7. above.

The acceptance of the above conditions shall be evidenced by the signature below of the authorized representative of the

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Sincerely,



National Technology Division
Federal Bureau of Investigation

Acknowledged and agreed to this 6 day of February, 2015. Renewal is due in one year.



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U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535-0001

May 2, 2014



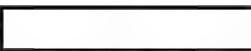



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Re: Acquisition of Wireless Collection Equipment/Technology and Non-Disclosure Obligations

~~LAW ENFORCEMENT SENSITIVE (LES)~~ The information in this document is the property of the Federal Bureau of Investigation (FBI) and may be distributed within the Federal Government (and its contractors), U.S. intelligence, law enforcement, public safety or protection officials and individuals with a need to know. Distribution beyond these entities without FBI Operational Technology Division authorization is prohibited. Precautions should be taken to ensure this information is stored and/or destroyed in a manner that precludes unauthorized access. Information bearing the LES caveat may not be used in legal proceedings without first receiving authorization from the originating agency. Recipients are prohibited from subsequently posting the information marked LES on a website on an unclassified network.

Dear 

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We have been advised by  of the  request for acquisition of certain wireless collection equipment/technology manufactured by . Consistent with the conditions on the equipment authorization granted to  by the Federal Communications Commission (FCC), state and local law enforcement agencies must coordinate with the Federal Bureau of Investigation (FBI) to complete this non-disclosure agreement prior to the acquisition and use of the equipment/technology authorized by the FCC authorization.

As you are aware, law enforcement agencies increasingly rely on wireless collection equipment/technology to conduct lawfully-authorized electronic surveillance. Disclosing the existence of and the capabilities provided by such equipment/technology to the public would reveal sensitive technological capabilities possessed by the law enforcement community and may allow individuals who are the subject of investigation wherein this equipment/technology is used to employ countermeasures to avoid detection by law enforcement. This would not only potentially endanger the lives and physical safety of law enforcement officers and other

individuals, but also adversely impact criminal and national security investigations. That is, disclosure of this information could result in the FBI's inability to protect the public from terrorism and other criminal activity because, through public disclosures, this technology has been rendered essentially useless for future investigations. In order to ensure that such wireless collection equipment/technology continues to be available for use by the law enforcement community, the equipment/technology and any information related to its functions, operation, and use shall be protected from potential compromise by precluding disclosure of this information to the public in any manner including but not limited to: in press releases, in court documents, during judicial hearings, or during other public forums or proceedings. Accordingly, the [redacted] agrees to the following conditions in connection with its acquisition and use of the [redacted]

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1. By entering into this agreement, the [redacted] affirms that it has statutory authority to lawfully employ this technology and will do so only in support of public safety operations or criminal investigations.
2. The [redacted] assumes responsibility for operating the equipment/technology in accordance with Federal law and regulation and accepts sole liability for any violations thereof, irrespective of the Federal Bureau of Investigation approval, if any, for the sale of the equipment/technology.
3. The [redacted] will ensure that operators of the equipment have met the operator training standards identified by the FBI and are certified to conduct operations.
4. The [redacted] will coordinate with the FBI in advance of its use of the wireless collection equipment/technology to ensure de-confliction of respective missions.
5. The [redacted] will not distribute, disseminate, or otherwise disclose any information concerning the wireless collection equipment/technology or any software, operating manuals, or related technical documentation (including its technical/engineering description(s) and capabilities) to the public, including to any non-law enforcement individuals or agencies.
6. The [redacted] will not distribute, disseminate, or otherwise disclose any information concerning the wireless collection equipment/technology or any software, operating manuals, or related technical documentation (including its technical/engineering description(s) and capabilities) provided to it to any other law enforcement or government agency without the prior written approval of the FBI. Prior to any approved distribution, dissemination, or comparable disclosure of any information concerning the wireless collection equipment/technology or any software, manuals, or related technical documentation related to such equipment/technology, all materials shall be marked "Law Enforcement Sensitive, For Official Use Only - Not to be Disclosed Outside of the [redacted]"

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7. The [redacted] shall not, in any civil or criminal proceeding, use or provide any information concerning the [redacted] [redacted] its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities) beyond the evidentiary results obtained through the use of the equipment/technology including, but not limited to, during pre-trial matters, in search warrants and related affidavits, in discovery, in response to court ordered disclosure, in other affidavits, in grand jury hearings, in the State's case-in-chief, rebuttal, or on appeal, or in testimony in any phase of civil or criminal trial, without the prior written approval of the FBI. If the [redacted] learns that a District Attorney, prosecutor, or a court is considering or intends to use or provide any information concerning the [redacted] [redacted] wireless collection equipment/technology, its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities) beyond the evidentiary results obtained through the use of the equipment/technology in a manner that will cause law enforcement sensitive information relating to the technology to be made known to the public, the [redacted] [redacted] will immediately notify the FBI in order to allow sufficient time for the FBI to intervene to protect the equipment/technology and information from disclosure and potential compromise.

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Notification shall be directed to the attention of:

[redacted]

Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A
Quantico, Virginia 22135

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[redacted]

and

[redacted]

Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Quantico, Virginia 22135

[redacted]

8. In addition, the [redacted] will, at the request of the FBI, seek dismissal of the case in lieu of using or providing, or allowing others to use or provide, any information concerning the [redacted] [redacted] its associated software, operating manuals, and any related documentation (beyond the evidentiary results obtained through the use of the equipment/technology), if using or providing such information would potentially or actually compromise the equipment/technology. This point supposes that the agency has some control or influence over the prosecutorial process. Where such is not the case, or is limited so as to be inconsequential, it is the FBI's expectation that the law enforcement

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agency identify the applicable prosecuting agency, or agencies, for inclusion in this agreement.

9. A copy of any court order in any proceeding in which the [redacted] [redacted] is a party directing disclosure of information concerning the [redacted] [redacted] and any associated software, operating manuals, or related documentation (including its technical/engineering description(s) and capabilities) will immediately be provided to the FBI in order to allow sufficient time for the FBI to intervene to protect the equipment/technology and information from disclosure and potential compromise. Any such court orders shall be directed to the attention of:
- b3 -1
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[redacted]

Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A
Quantico, Virginia 22135

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[redacted]

and

[redacted]

Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Quantico, Virginia 22135

[redacted]

10. The [redacted] [redacted] will not publicize its acquisition or use of the [redacted] equipment/technology or any of the capabilities afforded by such equipment/technology to the public, other law enforcement agencies, or other government agencies, including, but not limited to, in any news or press releases, interviews, or direct or indirect statements to the media.
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11. In the event that the [redacted] receives a request pursuant to the Freedom of Information Act (5 U.S.C. § 552) or an equivalent state or local law, the civil or criminal discovery process, or other judicial, legislative, or administrative process, to disclose information concerning the [redacted] [redacted] its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities), the [redacted] will immediately notify the FBI of any such request telephonically and in writing in order to allow sufficient time for the FBI to seek to prevent disclosure through appropriate channels. Notification shall be directed to the attention of:

[Redacted]

Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A
Quantico, Virginia 22135

[Redacted]

and

[Redacted]

Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Quantico, Virginia 22135

[Redacted]

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The [redacted] acceptance of the above conditions shall be evidenced by the signatures below of an authorized representative and wireless collection equipment operators of the [redacted]

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Sincerely,

[redacted signature box]

Operational Technology Division
Federal Bureau of Investigation

Acknowledged and agreed to this 12 day of May, 2014.

[redacted signature box]

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U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535-0001

June 1, 2011

[Redacted]

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Re: Purchase Wireless Collection Equipment/Technology and Non-Disclosure Obligations

Dear [Redacted]

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We have been advised by [Redacted] of the [Redacted] request to purchase certain wireless collection equipment/technology manufactured by [Redacted]. Consistent with the conditions on the equipment authorization granted to [Redacted] by the Federal Communications Commission (FCC), state and local law enforcement agencies must coordinate with the Federal Bureau of Investigation (FBI) to complete this non-disclosure agreement prior to the acquisition and use of the equipment/technology authorized by the FCC authorization.

As you are aware, law enforcement agencies increasingly rely on wireless collection equipment/technology to conduct lawfully-authorized electronic surveillance. Disclosing the existence of, and the capabilities provided by, such equipment/technology to the public would reveal sensitive technological capabilities possessed by the law enforcement community and may allow individuals who are the subject of investigation wherein this equipment/technology is used to employ countermeasures to avoid detection by law enforcement. This would not only potentially endanger the lives and physical safety of law enforcement officers and other individuals, but also adversely impact criminal and national security investigations. That is, disclosure of this information could result in the FBI's inability to protect the public from terrorism and other criminal activity because, through public disclosures, this technology has been rendered essentially useless for future investigations. In order to ensure that such wireless collection equipment/technology continues to be available for use by the law enforcement community, the equipment/technology and any information related to its functions, operation, and use shall be protected from potential compromise by precluding disclosure of this information to the public in any manner including by not limited to: in press releases, in court documents, during judicial hearings, or during other public forums or proceedings. Accordingly, the [Redacted] agrees to the following conditions in connection with its purchase and use of the [Redacted]

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1. The [redacted] will ensure that operators of the equipment have met the operator training standards identified by the FBI and are certified to conduct operations.
2. The [redacted] will coordinate with the FBI in advance of its use of the wireless collection equipment/technology to ensure de-confliction of respective missions.
3. The [redacted] will not distribute, disseminate, or otherwise disclose any information concerning the wireless collection equipment/technology or any software, operating manuals, or related technical documentation (including its technical/engineering description(s) and capabilities) to the public, including to any non-law enforcement individuals or agencies.
4. The [redacted] will not distribute, disseminate, or otherwise disclose any information concerning the wireless collection equipment/technology or any software, operating manuals, or related technical documentation (including its technical/engineering description(s) and capabilities) provided to it any other law enforcement or government agency without the prior written approval of the FBI. Prior to any approved distribution, dissemination, or comparable disclosure of any information concerning the wireless collection equipment/technology or any software, manuals, or related technical documentation related to such equipment/technology, all materials shall be marked "Law Enforcement Sensitive. For Official Use Only - Not to be Disclosed Outside of the [redacted] [redacted]".
5. The [redacted] shall not, in any civil or criminal proceeding, use or provide any information concerning the [redacted] wireless collection equipment/technology, its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities) beyond the evidentiary results obtained through the use of the equipment/technology including, but not limited to, during pre-trial matters, in search warrants and related affidavits, in discovery, in response to court ordered disclosure, in other affidavits, in grand jury hearings, in the State's case-in-chief, rebuttal, or on appeal, or in testimony in any phase of civil or criminal trial, without the prior written approval of the FBI. If the [redacted] learns that a District Attorney, prosecutor, or a court is considering or intends to use or provide any information concerning the [redacted] wireless collection equipment/technology, its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities) beyond the evidentiary results obtained through the use of the equipment/technology in a manner that will cause law enforcement sensitive information relating to the technology to be made known to the public, the [redacted] [redacted] will immediately notify the FBI in order to allow sufficient time for the FBI to intervene to protect the equipment/technology and information from disclosure and potential compromise.

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Notification shall be directed to the attention of:

[redacted]

Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A

b6 -1
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Quantico, Virginia 22135

[Redacted]

and

[Redacted]

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Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Quantico, Virginia 22135

[Redacted]

In addition, the [Redacted] will, at the request of the FBI, seek dismissal of the case in lieu of using or providing, or allowing others to use or provide, any information concerning the [Redacted] [Redacted] its associated software, operating manuals, and any related documentation (beyond the evidentiary results obtained through the use of the equipment/technology), if using or providing such information would potentially or actually compromise the equipment/technology.

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6. A copy of any court order in any proceeding in which the [Redacted] [Redacted] is a party directing disclosure of information concerning the [Redacted] [Redacted] and any associated software, operating manuals, or related documentation (including its technical/engineering description(s) and capabilities) will immediately be provided to the FBI in order to allow sufficient time for the FBI to intervene to protect the equipment/technology and information from disclosure and potential compromise. Any such court orders shall be directed to the attention of:

[Redacted]

Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A
Quantico, Virginia 22135

[Redacted]

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b7E -2,3

and

[Redacted]

Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Quantico, Virginia 22135

[Redacted]

7. The [Redacted] will not publicize its purchase or use of the [Redacted] or any of the capabilities afforded by such equipment/technology to the public, other law enforcement agencies, or other government agencies, including, but not limited to, in any news or press releases, interviews, or direct or indirect statements to the media.

b3 -1
b7E -1

8. In the event that the [redacted] receives a request pursuant to the Freedom of Information Act (5 U.S.C. § 552) or an equivalent state or local law, the civil or criminal discovery process, or other judicial, legislative, or administrative process, to disclose information concerning the [redacted], its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities), the [redacted] will immediately notify the FBI of any such request telephonically and in writing in order to allow sufficient time for the FBI to seek to prevent disclosure through appropriate channels. Notification shall be directed to the attention of:

b3 -1
b7E -1

[redacted]

Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A
Quantico, Virginia 22135

b6 -1
b7C -1
b7E -2,3

[redacted]

and

[redacted]

Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Quantico, Virginia 22135

[redacted]

The [redacted] acceptance of the above conditions shall be evidenced by the signature below of an authorized representative of the [redacted]

b3 -1
b7E -1

[redacted]

Sincerely,

[redacted]

Operational Technology Division
Federal Bureau of Investigation

b3 -1
b6 -1,2
b7C -1,2
b7E -1

Acknowledged and agreed to this 2 day of 6, 2011,

[redacted]

[Redacted]

b3 -1
b6 -1
b7C -1
b7E -1,3

cc:

[Redacted]

[Redacted]

FBI Office of the General Counsel

[Redacted]

FBI Office of the General Counsel

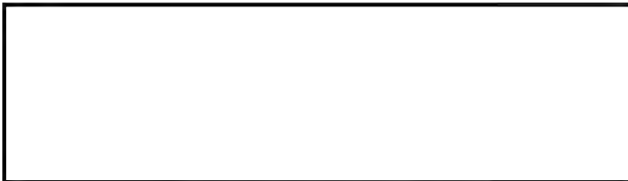
U.S. Department of Justice



Federal Bureau of Investigation

Washington, D.C. 20535-0001

June 1, 2011



b3 -1
b6 -2
b7C -2
b7E -1

Re: Purchase Wireless Collection Equipment/Technology and Non-Disclosure Obligations

Dear [Redacted]

b3 -1
b6 -2
b7C -2
b7E -1

We have been advised by [Redacted] of the [Redacted] request to purchase certain wireless collection equipment/technology manufactured by [Redacted]. Consistent with the conditions on the equipment authorization granted to [Redacted] by the Federal Communications Commission (FCC), state and local law enforcement agencies must coordinate with the Federal Bureau of Investigation (FBI) to complete this non-disclosure agreement prior to the acquisition and use of the equipment/technology authorized by the FCC authorization.

As you are aware, law enforcement agencies increasingly rely on wireless collection equipment/technology to conduct lawfully-authorized electronic surveillance. Disclosing the existence of, and the capabilities provided by, such equipment/technology to the public would reveal sensitive technological capabilities possessed by the law enforcement community and may allow individuals who are the subject of investigation wherein this equipment/technology is used to employ countermeasures to avoid detection by law enforcement. This would not only potentially endanger the lives and physical safety of law enforcement officers and other individuals, but also adversely impact criminal and national security investigations. That is, disclosure of this information could result in the FBI's inability to protect the public from terrorism and other criminal activity because, through public disclosures, this technology has been rendered essentially useless for future investigations. In order to ensure that such wireless collection equipment/technology continues to be available for use by the law enforcement community, the equipment/technology and any information related to its functions, operation, and use shall be protected from potential compromise by precluding disclosure of this information to the public in any manner including by not limited to: in press releases, in court documents, during judicial hearings, or during other public forums or proceedings. Accordingly, the [Redacted] agrees to the following conditions in connection with its purchase and use of the [Redacted]

b3 -1
b7E -1

1. The [redacted] will ensure that operators of the equipment have met the operator training standards identified by the FBI and are certified to conduct operations.
2. The [redacted] will coordinate with the FBI in advance of its use of the wireless collection equipment/technology to ensure de-confliction of respective missions.
3. The [redacted] will not distribute, disseminate, or otherwise disclose any information concerning the wireless collection equipment/technology or any software, operating manuals, or related technical documentation (including its technical/engineering description(s) and capabilities) to the public, including to any non-law enforcement individuals or agencies.
4. The [redacted] will not distribute, disseminate, or otherwise disclose any information concerning the wireless collection equipment/technology or any software, operating manuals, or related technical documentation (including its technical/engineering description(s) and capabilities) provided to it any other law enforcement or government agency without the prior written approval of the FBI. Prior to any approved distribution, dissemination, or comparable disclosure of any information concerning the wireless collection equipment/technology or any software, manuals, or related technical documentation related to such equipment/technology, all materials shall be marked "Law Enforcement Sensitive. For Official Use Only - Not to be Disclosed Outside of the [redacted]"
5. The [redacted] shall not in any civil or criminal proceeding, use or provide any information concerning the [redacted] [redacted] its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities) beyond the evidentiary results obtained through the use of the equipment/technology including, but not limited to, during pre-trial matters, in search warrants and related affidavits, in discovery, in response to court ordered disclosure, in other affidavits, in grand jury hearings, in the State's case-in-chief, rebuttal, or on appeal, or in testimony in any phase of civil or criminal trial, without the prior written approval of the FBI. If the [redacted] learns that a District Attorney, prosecutor, or a court is considering or intends to use or provide any information concerning the [redacted] wireless collection equipment/technology, its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities) beyond the evidentiary results obtained through the use of the equipment/technology in a manner that will cause law enforcement sensitive information relating to the technology to be made known to the public, the [redacted] [redacted] will immediately notify the FBI in order to allow sufficient time for the FBI to intervene to protect the equipment/technology and information from disclosure and potential compromise.

b3 -1
b7E -1

Notification shall be directed to the attention of:

[redacted]

Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A

b6 -1
b7C -1

Quantico, Virginia 22135

[Redacted]

and

[Redacted]

b6 -1
b7C -1
b7E -2,3

Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Quantico, Virginia 22135

[Redacted]

In addition, the [Redacted] will, at the request of the FBI, seek dismissal of the case in lieu of using or providing, or allowing others to use or provide, any information concerning the [Redacted] [Redacted] its associated software, operating manuals, and any related documentation (beyond the evidentiary results obtained through the use of the equipment/technology), if using or providing such information would potentially or actually compromise the equipment/technology.

b3 -1
b7E -1

6. A copy of any court order in any proceeding in which the [Redacted] [Redacted] is a party directing disclosure of information concerning the [Redacted] [Redacted] and any associated software, operating manuals, or related documentation (including its technical/engineering description(s) and capabilities) will immediately be provided to the FBI in order to allow sufficient time for the FBI to intervene to protect the equipment/technology and information from disclosure and potential compromise. Any such court orders shall be directed to the attention of:

[Redacted]

Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A
Quantico, Virginia 22135

[Redacted]

b6 -1
b7C -1
b7E -2,3

and

[Redacted]

Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Quantico, Virginia 22135

[Redacted]

7. The [Redacted] will not publicize its purchase or use of the [Redacted] or any of the capabilities afforded by such equipment/technology to the public, other law enforcement agencies, or other government agencies, including, but not limited to, in any news or press releases, interviews, or direct or indirect statements to the media.

b3 -1
b7E -1

8. In the event that the [redacted] receives a request pursuant to the Freedom of Information Act (5 U.S.C. § 552) or an equivalent state or local law, the civil or criminal discovery process, or other judicial, legislative, or administrative process, to disclose information concerning the [redacted] [redacted] its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities), the [redacted] will immediately notify the FBI of any such request telephonically and in writing in order to allow sufficient time for the FBI to seek to prevent disclosure through appropriate channels. Notification shall be directed to the attention of:

b3 -1
b7E -1

[redacted]

Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A
Quantico, Virginia 22135

b6 -1
b7C -1
b7E -2,3

[redacted]

and

[redacted]

Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Quantico, Virginia 22135

[redacted]

The [redacted] acceptance of the above conditions shall be evidenced by the signature below of an authorized representative of the [redacted]

b3 -1
b7E -1

[redacted]

Sincerely,

[redacted]

Operational Technology Division
Federal Bureau of Investigation

b3 -1
b6 -1,2
b7C -1,2
b7E -1

Acknowledged and agreed to this 2 day of June, 2011,

[redacted]

[Redacted]

cc:

[Redacted]

[Redacted] FBI Office of the General Counsel

[Redacted] FBI Office of the General Counsel

b6 -1
b7C -1
b7E -3



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535-0001

June 1, 2011



b3 -1
b6 -2
b7C -2
b7E -1

Re: Purchase Wireless Collection Equipment/Technology and Non-Disclosure Obligations

Dear [Redacted]

b3 -1
b7E -1

We have been advised by [Redacted] of the [Redacted] [Redacted] request to purchase certain wireless collection equipment/technology manufactured by [Redacted]. Consistent with the conditions on the equipment authorization granted to [Redacted] by the Federal Communications Commission (FCC), state and local law enforcement agencies must coordinate with the Federal Bureau of Investigation (FBI) to complete this non-disclosure agreement prior to the acquisition and use of the equipment/technology authorized by the FCC authorization.

As you are aware, law enforcement agencies increasingly rely on wireless collection equipment/technology to conduct lawfully-authorized electronic surveillance. Disclosing the existence of, and the capabilities provided by, such equipment/technology to the public would reveal sensitive technological capabilities possessed by the law enforcement community and may allow individuals who are the subject of investigation wherein this equipment/technology is used to employ countermeasures to avoid detection by law enforcement. This would not only potentially endanger the lives and physical safety of law enforcement officers and other individuals, but also adversely impact criminal and national security investigations. That is, disclosure of this information could result in the FBI's inability to protect the public from terrorism and other criminal activity because, through public disclosures, this technology has been rendered essentially useless for future investigations. In order to ensure that such wireless collection equipment/technology continues to be available for use by the law enforcement community, the equipment/technology and any information related to its functions, operation, and use shall be protected from potential compromise by precluding disclosure of this information to the public in any manner including by not limited to: in press releases, in court documents, during judicial hearings, or during other public forums or proceedings. Accordingly, the [Redacted] agrees to the following conditions in connection with its purchase and use of the [Redacted]

b3 -1
b7E -1

1. The [redacted] will ensure that operators of the equipment have met the operator training standards identified by the FBI and are certified to conduct operations.
2. The [redacted] will coordinate with the FBI in advance of its use of the wireless collection equipment/technology to ensure de-confliction of respective missions.
3. The [redacted] will not distribute, disseminate, or otherwise disclose any information concerning the wireless collection equipment/technology or any software, operating manuals, or related technical documentation (including its technical/engineering description(s) and capabilities) to the public, including to any non-law enforcement individuals or agencies.
4. The [redacted] will not distribute, disseminate, or otherwise disclose any information concerning the wireless collection equipment/technology or any software, operating manuals, or related technical documentation (including its technical/engineering description(s) and capabilities) provided to it any other law enforcement or government agency without the prior written approval of the FBI. Prior to any approved distribution, dissemination, or comparable disclosure of any information concerning the wireless collection equipment/technology or any software, manuals, or related technical documentation related to such equipment/technology, all materials shall be marked "Law Enforcement Sensitive, For Official Use Only - Not to be Disclosed Outside of the [redacted] [redacted]".
5. The [redacted] shall not, in any civil or criminal proceeding, use or provide any information concerning the [redacted] [redacted], its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities) beyond the evidentiary results obtained through the use of the equipment/technology including, but not limited to, during pre-trial matters, in search warrants and related affidavits, in discovery, in response to court ordered disclosure, in other affidavits, in grand jury hearings, in the State's case-in-chief, rebuttal, or on appeal, or in testimony in any phase of civil or criminal trial, without the prior written approval of the FBI. If the [redacted] learns that a District Attorney, prosecutor, or a court is considering or intends to use or provide any information concerning the [redacted] [redacted] its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities) beyond the evidentiary results obtained through the use of the equipment/technology in a manner that will cause law enforcement sensitive information relating to the technology to be made known to the public, the [redacted] [redacted] will immediately notify the FBI in order to allow sufficient time for the FBI to intervene to protect the equipment/technology and information from disclosure and potential compromise.

b3 -1
b7E -1

Notification shall be directed to the attention of:

[redacted]

Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A

b6 -1
b7C -1

Quantico, Virginia 22135

[Redacted]

and

[Redacted]

b6 -1
b7C -1
b7E -2,3

Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Quantico, Virginia 22135

[Redacted]

In addition, the [Redacted] will, at the request of the FBI, seek dismissal of the case in lieu of using or providing or allowing others to use or provide any information concerning the [Redacted] [Redacted] its associated software, operating manuals, and any related documentation (beyond the evidentiary results obtained through the use of the equipment/technology), if using or providing such information would potentially or actually compromise the equipment/technology.

b3 -1
b7E -1

- 6. A copy of any court order in any proceeding in which the [Redacted] [Redacted] is a party directing disclosure of information concerning the [Redacted] and any associated software, operating manuals, or related documentation (including its technical/engineering description(s) and capabilities) will immediately be provided to the FBI in order to allow sufficient time for the FBI to intervene to protect the equipment/technology and information from disclosure and potential compromise. Any such court orders shall be directed to the attention of:

[Redacted]

b6 -1
b7C -1
b7E -2,3

Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A
Quantico, Virginia 22135

[Redacted]

and

[Redacted]

Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Quantico, Virginia 22135

[Redacted]

- 7. The [Redacted] will not publicize its purchase or use of the [Redacted] or any of the capabilities afforded by such equipment/technology to the public, other law enforcement agencies, or other government agencies, including, but not limited to, in any news or press releases, interviews, or direct or indirect statements to the media.

b3 -1
b7E -1

8. In the event that the [redacted] receives a request pursuant to the Freedom of Information Act (5 U.S.C. § 552) or an equivalent state or local law, the civil or criminal discovery process, or other judicial, legislative, or administrative process, to disclose information concerning the [redacted] [redacted] its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities), the [redacted] will immediately notify the FBI of any such request telephonically and in writing in order to allow sufficient time for the FBI to seek to prevent disclosure through appropriate channels. Notification shall be directed to the attention of:

b3 -1
b7E -1

[redacted]

Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A
Quantico, Virginia 22135

b6 -1
b7C -1
b7E -2,3

[redacted]

and

[redacted]

Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Quantico, Virginia 22135

[redacted]

The [redacted] acceptance of the above conditions shall be evidenced by the signature below of an authorized representative of the [redacted]

b3 -1
b7E -1

Sincerely,

[redacted]

Operational Technology Division
Federal Bureau of Investigation

b3 -1
b6 -1,2
b7C -1,2
b7E -1

A [redacted] signed to this 2 day of June, 2011,

[Redacted]

cc:

[Redacted]

[Redacted] FBI Office of the General Counsel

[Redacted] FBI Office of the General Counsel

b3 -1
b6 -2
b7C -2
b7E -1,3



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535-0001

June 1, 2011



b3 -1
b7E -1

Re: Purchase Wireless Collection Equipment/Technology and Non-Disclosure Obligations

Dear [Redacted]

b3 -1
b7E -1

We have been advised by [Redacted] of the [Redacted] request to purchase certain wireless collection equipment/technology manufactured by [Redacted]. Consistent with the conditions on the equipment authorization granted to [Redacted] by the Federal Communications Commission (FCC), state and local law enforcement agencies must coordinate with the Federal Bureau of Investigation (FBI) to complete this non-disclosure agreement prior to the acquisition and use of the equipment/technology authorized by the FCC authorization.

As you are aware, law enforcement agencies increasingly rely on wireless collection equipment/technology to conduct lawfully-authorized electronic surveillance. Disclosing the existence of, and the capabilities provided by, such equipment/technology to the public would reveal sensitive technological capabilities possessed by the law enforcement community and may allow individuals who are the subject of investigation wherein this equipment/technology is used to employ countermeasures to avoid detection by law enforcement. This would not only potentially endanger the lives and physical safety of law enforcement officers and other individuals, but also adversely impact criminal and national security investigations. That is, disclosure of this information could result in the FBI's inability to protect the public from terrorism and other criminal activity because, through public disclosures, this technology has been rendered essentially useless for future investigations. In order to ensure that such wireless collection equipment/technology continues to be available for use by the law enforcement community, the equipment/technology and any information related to its functions, operation, and use shall be protected from potential compromise by precluding disclosure of this information to the public in any manner including by not limited to: in press releases, in court documents, during judicial hearings, or during other public forums or proceedings. Accordingly, the [Redacted] agrees to the following conditions in connection with its purchase and use of the [Redacted]

b3 -1
b7E -1

1. The [redacted] will ensure that operators of the equipment have met the operator training standards identified by the FBI and are certified to conduct operations.
2. The [redacted] will coordinate with the FBI in advance of its use of the wireless collection equipment/technology to ensure de-confliction of respective missions.
3. The [redacted] will not distribute, disseminate, or otherwise disclose any information concerning the wireless collection equipment/technology or any software, operating manuals, or related technical documentation (including its technical/engineering description(s) and capabilities) to the public, including to any non-law enforcement individuals or agencies.
4. The [redacted] will not distribute, disseminate, or otherwise disclose any information concerning the wireless collection equipment/technology or any software, operating manuals, or related technical documentation (including its technical/engineering description(s) and capabilities) provided to it any other law enforcement or government agency without the prior written approval of the FBI. Prior to any approved distribution, dissemination, or comparable disclosure of any information concerning the wireless collection equipment/technology or any software, manuals, or related technical documentation related to such equipment/technology, all materials shall be marked "Law Enforcement Sensitive For Official Use Only - Not to be Disclosed Outside of the [redacted] [redacted]".
5. The [redacted] shall not, in any civil or criminal proceeding, use or provide any information concerning the [redacted] [redacted] its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities) beyond the evidentiary results obtained through the use of the equipment/technology including, but not limited to, during pre-trial matters, in search warrants and related affidavits, in discovery, in response to court ordered disclosure, in other affidavits, in grand jury hearings, in the State's case-in-chief, rebuttal, or on appeal, or in testimony in any phase of civil or criminal trial, without the prior written approval of the FBI. If the [redacted] learns that a District Attorney, prosecutor, or a court is considering or intends to use or provide any information concerning the [redacted] [redacted] its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities) beyond the evidentiary results obtained through the use of the equipment/technology in a manner that will cause law enforcement sensitive information relating to the technology to be made known to the public, the [redacted] [redacted] will immediately notify the FBI in order to allow sufficient time for the FBI to intervene to protect the equipment/technology and information from disclosure and potential compromise.

b3 -1
b7E -1

Notification shall be directed to the attention of:

[redacted]

Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A

b6 -1
b7C -1

Quantico, Virginia 22135

[Redacted]

b6 -1
b7C -1
b7E -2,3

and

[Redacted]

Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Quantico, Virginia 22135

[Redacted]

In addition, the [Redacted] will, at the request of the FBI, seek dismissal of the case in lieu of using or providing, or allowing others to use or provide, any information concerning the [Redacted]

[Redacted] its associated software, operating manuals, and any related documentation (beyond the evidentiary results obtained through the use of the equipment/technology), if using or providing such information would potentially or actually compromise the equipment/technology.

b3 -1
b7E -1

6. A copy of any court order in any proceeding in which the [Redacted] [Redacted] is a party directing disclosure of information concerning the [Redacted] [Redacted] and any associated software, operating manuals, or related documentation (including its technical/engineering description(s) and capabilities) will immediately be provided to the FBI in order to allow sufficient time for the FBI to intervene to protect the equipment/technology and information from disclosure and potential compromise. Any such court orders shall be directed to the attention of:

[Redacted]

Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A
Quantico, Virginia 22135

b6 -1
b7C -1
b7E -2,3

[Redacted]

and

[Redacted]

Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Quantico, Virginia 22135

[Redacted]

7. The [Redacted] will not publicize its purchase or use of the [Redacted] or any of the capabilities afforded by such equipment/technology to the public, other law enforcement agencies, or other government agencies, including, but not limited to, in any news or press releases, interviews, or direct or indirect statements to the media.

b3 -1
b7E -1

8. In the event that the [redacted] receives a request pursuant to the Freedom of Information Act (5 U.S.C. § 552) or an equivalent state or local law, the civil or criminal discovery process, or other judicial, legislative, or administrative process, to disclose information concerning the [redacted] [redacted] its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities), the [redacted] will immediately notify the FBI of any such request telephonically and in writing in order to allow sufficient time for the FBI to seek to prevent disclosure through appropriate channels. Notification shall be directed to the attention of:

b3 -1
b7E -1

[redacted]

Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A
Quantico, Virginia 22135

b6 -1
b7C -1
b7E -2,3

[redacted]

and

[redacted]

Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Quantico, Virginia 22135

[redacted]

The [redacted] acceptance of the above conditions shall be evidenced by the signature below of an authorized representative of the [redacted]

b3 -1
b7E -1

[redacted]

Sincerely,

[redacted]

Operational Technology Division
Federal Bureau of Investigation

b3 -1
b6 -1
b7C -1
b7E -1

Acknowledged to this 7 day of Sept, 2011,

[redacted]

[redacted]

[Redacted]

cc:

[Redacted]

[Redacted] FBI Office of the General Counsel

[Redacted] FBI Office of the General Counsel

b3 -1
b6 -1
b7C -1
b7E -1,3



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535-0001

November 1, 2013



b3 -1
b7E -1

Re. Acquisition of Wireless Collection Equipment/Technology and Non-Disclosure Obligations

~~LAW ENFORCEMENT SENSITIVE (LES)~~ The information in this document is the property of the Federal Bureau of Investigation (FBI) and may be disclosed within the Federal Government (and its contractors), U.S. intelligence, law enforcement, public safety or protection officials, and individuals with a need to know. Distribution beyond these entities without FBI Operational Technology Division authorization is prohibited. Precautions should be taken to ensure this information is stored and is destroyed in a manner that precludes unauthorized access. Information bearing the LES caveat may not be used in legal proceedings without first securing authorization from the originating agency. Receipts are prohibited from subsequently posting the information marked LES on a website or an unclassified network.

Dear [Redacted]

We have been advised by [Redacted] of the [Redacted] request for acquisition of certain wireless collection equipment/technology manufactured by [Redacted]. Consistent with the conditions on the equipment authorization granted to [Redacted] by the Federal Communications Commission (FCC), state and local law enforcement agencies must coordinate with the Federal Bureau of Investigation (FBI) to complete this non-disclosure agreement prior to the acquisition and use of the equipment/technology authorized by the FCC authorization.

b3 -1
b7E -1

As you are aware, law enforcement agencies increasingly rely on wireless collection equipment/technology to conduct lawfully-authorized electronic surveillance. Disclosing the existence of and the capabilities provided by such equipment/technology to the public would reveal sensitive technological capabilities possessed by the law enforcement community and may allow individuals who are the subject of investigation wherein this equipment/technology is used to employ countermeasures to avoid detection by law enforcement. This would not only potentially endanger the lives and physical safety of law enforcement officers and other

individuals, but also adversely impact criminal and national security investigations. That is, disclosure of this information could result in the FBI's inability to protect the public from terrorism and other criminal activity because, through public disclosures, this technology has been rendered essentially useless for future investigations. In order to ensure that such wireless collection equipment/technology continues to be available for use by the law enforcement community, the equipment/technology and any information related to its functions, operation, and use shall be protected from potential compromise by precluding disclosure of this information to the public in any manner including but not limited to: in press releases, in court documents, during judicial hearings, or during other public forums or proceedings. Accordingly, the [redacted] agrees to the following conditions in connection with its acquisition and use of the [redacted]

b3 -1
b7E -1

1. By entering into this agreement, the [redacted] affirms that it has statutory authority to lawfully employ this technology and will do so only in support of public safety operations or criminal investigations.
2. The [redacted] assumes responsibility for operating the equipment/technology in accordance with Federal law and regulation and accepts sole liability for any violations thereof, irrespective of the Federal Bureau of Investigation approval, if any, for the sale of the equipment/technology.
3. The [redacted] will ensure that operators of the equipment have met the operator training standards identified by the FBI and are certified to conduct operations.
4. The [redacted] will coordinate with the FBI in advance of its use of the wireless collection equipment/technology to ensure de-confliction of respective missions.
5. The [redacted] will not distribute, disseminate, or otherwise disclose any information concerning the wireless collection equipment/technology or any software, operating manuals, or related technical documentation (including its technical/engineering description(s) and capabilities) to the public, including to any non-law enforcement individuals or agencies.
6. The [redacted] will not distribute, disseminate, or otherwise disclose any information concerning the wireless collection equipment/technology or any software, operating manuals, or related technical documentation (including its technical/engineering description(s) and capabilities) provided to it to any other law enforcement or government agency without the prior written approval of the FBI. Prior to any approved distribution, dissemination, or comparable disclosure of any information concerning the wireless collection equipment/technology or any software, manuals, or related technical documentation related to such equipment/technology, all materials shall be marked "Law Enforcement Sensitive, For Official Use Only - Not to be Disclosed Outside of the [redacted]"

b3 -1
b7E -1

7. [redacted] shall not, in any civil or criminal proceeding, use or provide any information concerning the [redacted] [redacted] its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities) beyond the evidentiary results obtained through the use of the equipment/technology including, but not limited to, during pre-trial matters, in search warrants and related affidavits, in discovery, in response to court ordered disclosure, in other affidavits, in grand jury hearings, in the State's case-in-chief, rebuttal, or on appeal, or in testimony in any phase of civil or criminal trial, without the prior written approval of the FBI. If the [redacted] learns that a District Attorney, prosecutor, or a court is considering or intends to use or provide any information concerning the [redacted] wireless collection equipment/technology, its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities) beyond the evidentiary results obtained through the use of the equipment/technology in a manner that will cause law enforcement sensitive information relating to the technology to be made known to the public, the [redacted] will immediately notify the FBI in order to allow sufficient time for the FBI to intervene to protect the equipment/technology and information from disclosure and potential compromise.

b3 -1
b7E -1

Notification shall be directed to the attention of:

[redacted]
 Federal Bureau of Investigation
 Engineering Research Facility
 Building 27958A, Pod A
 Quantico, Virginia 22135
 [redacted]

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and

[redacted]
 Operational Technology Division
 Federal Bureau of Investigation
 Engineering Research Facility
 Building 27958A, Pod B
 Quantico, Virginia 22135
 [redacted]

8. In addition, the [redacted] will, at the request of the FBI, seek dismissal of the case in lieu of using or procuring, or allowing others to use or provide any information concerning the [redacted] [redacted] its associated software, operating manuals, and any related documentation (beyond the evidentiary results obtained through the use of the equipment/technology), if using or providing such information would potentially or actually compromise the equipment/technology. This point supposes that the agency has some control or influence over the prosecutorial process. Where such is not the case, or is limited so as to be inconsequential, it is the FBI's expectation that the law enforcement

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agency identify the applicable prosecuting agency, or agencies, for inclusion in this agreement.

- 9. A copy of any court order in any proceeding in which the [redacted] is a party directing disclosure of information concerning the [redacted] and any associated software, operating manuals, or related documentation (including its technical/engineering description(s) and capabilities) will immediately be provided to the FBI in order to allow sufficient time for the FBI to intervene to protect the equipment/technology and information from disclosure and potential compromise. Any such court orders shall be directed to the attention of:

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[redacted]

Federal Bureau of Investigation
Engineering Research Facility
Building 2795EA, Pod A
Quantico, Virginia 22135

[redacted]

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and

[redacted]

Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 2795EA, Pod B
Quantico, Virginia 22135

[redacted]

- 10. [redacted] will not publicize its acquisition or use of the [redacted] [redacted] any of the capabilities afforded by such equipment/technology to the public, other law enforcement agencies, or other government agencies, including, but not limited to, in any news or press releases, interviews, or direct or indirect statements to the media.

- 11. In the event that the [redacted] receives a request pursuant to the Freedom of Information Act (5 U.S.C. § 552) or an equivalent state or local law, the civil or criminal discovery process, or other judicial, legislative, or administrative process to disclose information concerning the [redacted] [redacted] (its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities), the [redacted] will immediately notify the FBI of any such request [redacted] and in writing in order to allow sufficient time for the FBI to seek to prevent disclosure through appropriate channels. Notification shall be directed to the attention of:

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[Redacted]

Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A
Quantico, Virginia 22135

[Redacted]

.sul

[Redacted]

Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Quantico, Virginia 22135

[Redacted]

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[Redacted] acceptance of the above conditions shall be evidenced by
the signature below of an authorized representative and wireless collection equipment operators
of the [Redacted]

b3 -1
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Sincerely,

[Redacted Signature]

Operational Technology Division
Federal Bureau of Investigation

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b7E -1

Acknowledged and agreed to this 1st day of ~~NOVEMBER~~, 2013.

[Redacted Signature]

[Redacted Signature]

[redacted] (IMD) (CON)

From: [redacted] (OTD) (CON)
Sent: Tuesday, September 20, 2016 3:36 PM
To: [redacted] (RMD) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OTD) (FBI); [redacted] (OTD) (FBI); [redacted] (OTD) (FBI); [redacted] (OTD) (FBI); [redacted] (OGC) (FBI)
Subject: Re: [redacted]
Attachments: [redacted] NDA.pdf

[redacted]

Here is a copy of the NDA. Thanks.

[redacted]

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From: [redacted] (RMD) (FBI)
Sent: Tuesday, September 20, 2016 3:17 PM
To: [redacted] (OTD) (CON)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OTD) (FBI); [redacted] (OTD) (FBI); [redacted] (OTD) (FBI); [redacted] (OTD) (FBI); [redacted] (OGC) (FBI)
Subject: [redacted]

Hi [redacted]
We are planning [redacted]. Could you please send me a copy of [redacted] NDA?
Thank you,

[redacted]

Federal Bureau of Investigation

[redacted]

CONFIDENTIALITY STATEMENT: This message is transmitted to you by the Office of the General Counsel of the Federal Bureau of Investigation. The message, along with any attachments, may be confidential and legally privileged. If you are not the intended recipient of this message, please destroy it promptly without further retention or dissemination (unless otherwise required by law). Please notify the sender of the error by a separate e-mail or by calling [redacted]

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 21-cv-10719

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FOI/PA
DELETED PAGE INFORMATION SHEET
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U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535-0001

November 13, 2012



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Re: Acquisition of Wireless Collection Equipment/Technology and Non-Disclosure Obligations

~~LAW ENFORCEMENT SENSITIVE (LES)~~ The information in this document is the property of the Federal Bureau of Investigation (FBI) and may be distributed within the Federal Government (and its contractors), U.S. intelligence, law enforcement, public safety or protection officials and individuals with a need to know. Distribution beyond these entities without FBI Operational Technology Division authorization is prohibited. Precautions should be taken to ensure this information is stored and/or destroyed in a manner that precludes unauthorized access. Information bearing the LES caveat may not be used in legal proceedings without first receiving authorization from the originating agency. Recipients are prohibited from subsequently posting the information marked LES on a website on an unclassified network.

Dear [redacted]

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We have been advised by [redacted] of the [redacted] request for acquisition of certain wireless collection equipment/technology manufactured by [redacted]. Consistent with the conditions on the equipment authorization granted to [redacted] by the Federal Communications Commission (FCC), state and local law enforcement agencies must coordinate with the Federal Bureau of Investigation (FBI) to complete this non-disclosure agreement prior to the acquisition and use of the equipment/technology authorized by the FCC authorization.

As you are aware, law enforcement agencies increasingly rely on wireless collection equipment/technology to conduct lawfully-authorized electronic surveillance. Disclosing the existence of and the capabilities provided by such equipment/technology to the public would reveal sensitive technological capabilities possessed by the law enforcement community and may allow individuals who are the subject of investigation wherein this equipment/technology is used to employ countermeasures to avoid detection by law enforcement. This would not only potentially endanger the lives and physical safety of law enforcement officers and other

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individuals, but also adversely impact criminal and national security investigations. That is, disclosure of this information could result in the FBI's inability to protect the public from terrorism and other criminal activity because, through public disclosures, this technology has been rendered essentially useless for future investigations. In order to ensure that such wireless collection equipment/technology continues to be available for use by the law enforcement community, the equipment/technology and any information related to its functions, operation, and use shall be protected from potential compromise by precluding disclosure of this information to the public in any manner including but not limited to: in press releases, in court documents, during judicial hearings, or during other public forums or proceedings. Accordingly, the [redacted] agrees to the following conditions in connection with its acquisition and use of the [redacted]

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1. By entering into this agreement, the [redacted] affirms that it has statutory authority to lawfully employ this technology and will do so only in support of public safety operations or criminal investigations.
2. The [redacted] assumes responsibility for operating the equipment/technology in accordance with Federal law and regulation and accepts sole liability for any violations thereof, irrespective of the Federal Bureau of Investigation approval, if any, for the sale of the equipment/technology.
3. The [redacted] will ensure that operators of the equipment have met the operator training standards identified by the FBI and are certified to conduct operations.
4. The [redacted] will coordinate with the FBI in advance of its use of the wireless collection equipment/technology to ensure de-confliction of respective missions.
5. The [redacted] will not distribute, disseminate, or otherwise disclose any information concerning the wireless collection equipment/technology or any software, operating manuals, or related technical documentation (including its technical/engineering description(s) and capabilities) to the public, including to any non-law enforcement individuals or agencies.
6. The [redacted] will not distribute, disseminate, or otherwise disclose any information concerning the wireless collection equipment/technology or any software, operating manuals, or related technical documentation (including its technical/engineering description(s) and capabilities) provided to it to any other law enforcement or government agency without the prior written approval of the FBI. Prior to any approved distribution, dissemination, or comparable disclosure of any information concerning the wireless collection equipment/technology or any software, manuals, or related technical documentation related to such equipment/technology, all materials shall be marked "Law Enforcement Sensitive, For Official Use Only - Not to be Disclosed Outside of the [redacted]"

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7. The [redacted] shall not, in any civil or criminal proceeding, use or provide any information concerning the [redacted] [redacted] its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities) beyond the evidentiary results obtained through the use of the equipment/technology including, but not limited to, during pre-trial matters, in search warrants and related affidavits, in discovery, in response to court ordered disclosure, in other affidavits, in grand jury hearings, in the State's case-in-chief, rebuttal, or on appeal, or in testimony in any phase of civil or criminal trial, without the prior written approval of the FBI. If the [redacted] learns that a District Attorney, prosecutor, or a court is considering or intends to use or provide any information concerning the [redacted] [redacted] its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities) beyond the evidentiary results obtained through the use of the equipment/technology in a manner that will cause law enforcement sensitive information relating to the technology to be made known to the public, the [redacted] [redacted] will immediately notify the FBI in order to allow sufficient time for the FBI to intervene to protect the equipment/technology and information from disclosure and potential compromise.

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Notification shall be directed to the attention of:

[redacted]

Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A
Quantico, Virginia 22135

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[redacted]

and

[redacted]

Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Quantico, Virginia 22135

[redacted]

8. In addition, the [redacted] will, at the request of the FBI, seek dismissal of the case in lieu of using or providing, or allowing others to use or provide, any information concerning the [redacted] [redacted], its associated software, operating manuals, and any related documentation (beyond the evidentiary results obtained through the use of the equipment/technology), if using or providing such information would potentially or actually compromise the equipment/technology. This point supposes that the agency has some control or influence over the prosecutorial process. Where such is not the case, or is limited so as to be inconsequential, it is the FBI's expectation that the law enforcement

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agency identify the applicable prosecuting agency, or agencies, for inclusion in this agreement.

- 9. A copy of any court order in any proceeding in which the [redacted] is a party directing disclosure of information concerning the [redacted] and any associated software, operating manuals, or related documentation (including its technical/engineering description(s) and capabilities) will immediately be provided to the FBI in order to allow sufficient time for the FBI to intervene to protect the equipment/technology and information from disclosure and potential compromise. Any such court orders shall be directed to the attention of:

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[redacted]

Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A
Quantico, Virginia 22135

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[redacted]

and

[redacted]

Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Quantico, Virginia 22135

[redacted]

- 10. The [redacted] will not publicize its acquisition or use of the [redacted] or any of the capabilities afforded by such equipment/technology to the public, other law enforcement agencies, or other government agencies, including, but not limited to, in any news or press releases, interviews, or direct or indirect statements to the media.

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- 11. In the event that the [redacted] receives a request pursuant to the Freedom of Information Act (5 U.S.C. § 552) or an equivalent state or local law, the civil or criminal discovery process, or other judicial, legislative, or administrative process, to disclose information concerning the [redacted], its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities), the [redacted] will immediately notify the FBI of any such request telephonically and in writing in order to allow sufficient time for the FBI to seek to prevent disclosure through appropriate channels. Notification shall be directed to the attention of:

[redacted]

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b7C -1

Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A
Quantico, Virginia 22135

[Redacted]

and

[Redacted]

Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Quantico, Virginia 22135

[Redacted]

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The [redacted] acceptance of the above conditions shall be evidenced by the signatures below of an authorized representative and wireless collection equipment operators of the [redacted]

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Sincerely,

[redacted]

Operational Technology Division
Federal Bureau of Investigation

Acknowledged and agreed to this 13 day of Nov, 2012.

[Large redacted signature area]

[redacted signature]

[redacted signature]

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U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535-0001

December 1, 2014

IN TURN

[Redacted]

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[Redacted]

[Redacted]

Re: Acquisition of Cell Site Simulator/Pen Register Equipment/Technology
and Non-Disclosure Obligations

Dear [Redacted] and [Redacted]

[Redacted]

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We have been notified of the [Redacted] request for acquisition of certain cell site simulator/pen register equipment providing cellular device locating and identifying capability. Consistent with the condition on the equipment authorization granted by the Federal Communications Commission, State and local law enforcement agencies must coordinate with the Federal Bureau of Investigation (FBI) to complete this non-disclosure agreement in order to acquire and use cell site simulator/pen register equipment/technology.

Law enforcement agencies rely on cellular device locating and identifying capability to help meet their law enforcement and public safety responsibilities. Disclosure of certain information about cell site simulator/pen register equipment and techniques to the public, such information referred to by the Federal Government as Law Enforcement Sensitive (LES), would

allow adversaries of law enforcement to diminish or thwart law enforcement efforts, thereby enabling such adversaries to evade detection and circumvent the law. Disclosure of even minor details about this technology or its use may reveal more information than its apparent insignificance suggests because, much like a jigsaw puzzle, each detail may aid in piecing together other bits of information even when the individual piece is not of obvious importance in itself. Thus, disclosure of what appears to be innocuous information about cell site simulators would provide adversaries with critical information about the capabilities, limitations, and circumstances of their use, and would allow those adversaries to accumulate information and draw conclusions about the use and technical capabilities of the technology. In turn, this would provide them the information necessary to develop defensive technology, modify their behaviors, and otherwise take countermeasures designed to thwart the use of this technology in order to evade detection by law enforcement and circumvent the law. Moreover, the same techniques, equipment, and tools used in criminal cases are often used in counterterrorism and counterintelligence investigations. Thus, compromise of the law enforcement community's investigational equipment and methods in a criminal case or a public records disclosure could have a significant detrimental impact on the national security of the United States.

Due to these concerns, the FBI has consistently asserted that the details concerning the use, implementation and application of cell site simulator technology is both law enforcement sensitive and protected homeland security information, and any disclosure could easily impair the use of this important investigative method. In recognition of this vulnerability, the FBI has, as a matter of policy, protected this category of electronic surveillance equipment and technique from disclosure, directing its agents that while general facts that a surveillance or location operation was conducted in connection with a specific case may be disclosed, neither details as to the equipment's operation nor the tradecraft involved may be disclosed. *See United States v. Rigmaiden*, 845 F.Supp. 982 (D.Ariz. 2012); *United States v. Garey*, 2004 WL 2663023 (M.D.Ga. Nov. 15, 2004).

As mentioned earlier, any information concerning cell site simulator equipment or technology (including, but not limited to information about the operation of the equipment or technology itself, limitations or capabilities of the equipment or technology, any training

materials concerning the capabilities or technology, or tradecraft required to operate the equipment) authorized by the FBI to be provided to your agency is considered protected homeland security information under the Homeland Security Act ("HSA"). Under 6 U.S.C. § 482(e), homeland security information "obtained by a State or local government from a Federal agency under this section shall remain under the control of the Federal agency, and a State or local law authorizing or requiring such government to disclose information shall not apply to such information." The HSA defines "homeland security information" as information that relates to the ability to prevent, interdict, or disrupt terrorist activity; information that would improve the identification or investigation of a suspected terrorist or terrorist organization; or information that would improve the response to a terrorist act. *See* 6 U.S.C. §§ 482(f)(1)(B)-(D). Cell site simulator technology meets all three criteria. Accordingly, by signing this agreement, your agency agrees and understands that disclosure of protected homeland security information is specifically prohibited under Federal law, and that this law expressly preempts state and local disclosure laws under the Supremacy Clause (Article VI, clause 2) of the United States Constitution. *See, e.g., Lorillard Tobacco Co. v. Reilly, 533 U.S. 525, 541 (2001)* (as a general principle, Federal law preempts State law where Congress has said so explicitly).

Finally, by entering into this agreement, you acknowledge that you understand cell site simulator technology is a regulated defense article on the United States Munitions List ("USML"). *See* 22 C.F.R. § 121.1(b). As such, technical details concerning this technology are subject to the non-disclosure provisions of the International Traffic In Arms Regulations ("ITAR"), 22 C.F.R., Parts 120-130. The ITAR implements the Arms Export Control Act, 22 U.S.C. § 2778, and Executive Order 13,637, which control the export and import of defense-related articles and services listed on the USML. Because this equipment is explicitly governed by the ITAR, 22 C.F.R. § 123.1 requires anyone to obtain a license from the Department of State prior to making an export. Notably, technical information does not have to leave the borders of the United States to be deemed an export subject to the regulation. *See* 22 C.F.R. § 120.17 (defining an export as the disclosure of technical data about a defense article to a foreign national, even while located in the United States). Consequently, if a State or local government disseminates any part of the technical information to an entity knowing that the entity intends to or is likely to publish or further disseminate the information in some fashion that would make it

accessible to non-U.S. citizens, or that the requesting entity employs or has any non-U.S. citizens present at its offices, this could constitute a violation of the Arms Control Export Act. Unauthorized disclosure of ITAR-controlled information is a felony punishable by up to 20 years imprisonment and up to \$1 million per occurrence. *See* 22 C.F.R., Part 127.

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Accordingly, to preserve the continued efficacy of the capability for the Law Enforcement Community, the [redacted] County and [redacted] agree to the following conditions in connection with the acquisition and use of the cell site simulator/pen register equipment/technology:

1. The signing State or municipal government official affirms that he or she has the authority to lawfully obligate his or her State or municipality to the conditions of this agreement. Moreover, the official affirms that appropriate legal counsel has determined the nondisclosure obligations herein are defensible under State law, as possibly augmented by Federal statutory protections, such as might be necessary for public records access requests, and that the State or municipality will itself perform due diligence in meeting its nondisclosure obligations as and when necessary.
2. The signing law enforcement agency official affirms that he or she has the authority to lawfully obligate his or her agency and its personnel to the conditions of this agreement. Moreover, the official affirms that the law enforcement agency will itself perform due diligence in meeting its nondisclosure obligations as and when necessary.
3. The signing law enforcement agency official affirms that the appropriate chief prosecuting official(s) representing the jurisdiction(s) of possible use of the agency's cellular device identifying and locating capability was (were) notified of the law enforcement agency's intended acquisition of the equipment/technology and he or she (they) indicated an understanding that use of the capability in a specific prosecutorial jurisdiction by the law enforcement agency is conditioned on the chief prosecuting official's separate written non-disclosure agreement with the FBI (notification and request for the separate agreement to be made as indicated in condition 10. below).

Furthermore, the law enforcement agency official agrees that, after exhaustion of all other lawful means, including implementing advice and assistance from the FBI, the law enforcement agency will, at the request of the FBI, seek dismissal of the case with the prosecutorial jurisdiction in lieu of using or providing, or allowing others to use or provide, any sensitive information concerning the cell site simulator/pen register equipment/technology in criminal litigation.

4. The signing law enforcement agency official affirms that the law enforcement agency has statutory authority to lawfully employ this technology and will do so only in support of public safety operations or criminal investigations within State or municipal jurisdictions that are also party to appropriate, related nondisclosure agreements with the FBI. Moreover, the law enforcement agency assumes responsibility for operating the equipment/technology in accordance with State and Federal law and regulation and accepts sole liability for any violations thereof, irrespective of the Federal Bureau of Investigation approval, if any, for the acquisition of the equipment/technology.
5. The signing law enforcement agency official affirms that he or she understands and acknowledges that this equipment, under Federal law, functions as a pen register device as defined in 18 U.S.C. §3127(3), and that 18 U.S.C. §3121(a) prohibits any person, including law enforcement, from operating a pen register device without first obtaining a court order, or having emergency pen register authority under either State or Federal law, as applicable. The signing law enforcement agency official agrees that he or she will not permit the operation of the device without having a court-issued pen register order or emergency pen register authority as outlined in Federal or State law.
6. The signing law enforcement agency official affirms that he or she understands that he or she is prohibited by Federal law from intercepting the content of any communications with a pen register device, and that he or she must use technology reasonably available to the agency to restrict the equipment to recording or decoding electronic or other impulse to the dialing, routing, addressing and signaling information utilized in the processing and transmitting of wire or electronic communications. *See* 18 U.S.C. §3121(c).

7. The signing law enforcement agency official affirms that operators of the equipment meet the operator training standards, identified separately by the FBI, before operating the equipment, are certified by their agency to conduct operations, are notified of the conditions of this agreement, and are legally bound to this agreement by virtue of their employment or through an internal written contract with the agency or State or municipal government.

8. The State or municipal government and/or law enforcement agency may, without first obtaining prior approval from the FBI, confirm or disclose in public for official business only, including for the purpose of obtaining relevant legal authority, the following: 1) the agency has cell site simulator/pen register equipment (without disclosing make and model) that provides the capability to locate or identify a cellular device, 2) a description of the legal authority relied upon for using the capability, 3) a description not containing LES information (see conditions 9. and 10. below) of agency policies or practices that ensure legal compliance and protection of third party privacy rights, 4) the fact that the capability might cause temporary disruption of service for certain cellular devices in the operating area, 5) that the equipment was used to determine general location information about the target cellular device, and 6) that the capability is a sensitive investigative technique so further details are protected and will not be publicly disclosed or confirmed. Note: The preceding provisions shall be narrowly and strictly construed. Any questions regarding interpretation or scope of these provisions must be addressed with the FBI prior to disclosure.

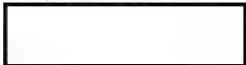
9. Except for the strictly constructed permission in condition 8. above or for necessary deliberations between relevant officials necessary for coordination of this nondisclosure agreement, criminal or civil litigation discovery considerations, or public records access request processing, in which the exercise of due diligence to protect LES information and timely notice to the FBI pursuant to this agreement is presumed, the State or municipal government and law enforcement agency will not, absent written FBI approval, distribute, disseminate, disclose, or otherwise confirm any LES information, as determined by the

FBI, concerning the cell site simulator/pen register equipment/technology to the public, including to any non-law enforcement individuals or agencies not otherwise part of this agreement. These restrictions include, but are not limited to, tradecraft, technical details, functional limitations or vulnerabilities, manufacturer, model name, hardware, software, operating manuals, related technical documentation (including technical/engineering descriptions and capabilities), line item costs, or related entries in acquisition, funding, grant, or procurement documents, such documents often being susceptible to public disclosure by State or municipal financial authorities.

10. The signing State or municipal government official and the signing law enforcement agency official affirm on behalf of their respective organizations that questions about or determinations of what constitutes LES or protected homeland security information will be deferred to the FBI. If the State or municipal government or law enforcement agency receives a request or order to disclose any information about the cell site simulator equipment/technology, or learns of such anticipated activity, an appropriate official will immediately notify the FBI in order to allow sufficient time for the FBI to assist in protecting the equipment/technology.

All notifications or inquiries regarding this agreement and the subject capability shall be directed to the attention of:



Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A
Quantico, Virginia 22135
Telephone 

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11. The signing law enforcement official understands and acknowledges that his or her agency's approval to acquire and use the cell site simulator is expressly conditioned on execution of and adherence to this non-disclosure agreement with the FBI. In the event that the FBI determines the agency is failing to abide by the conditions in this agreement, the FBI may notify the vendor/manufacture to discontinue services for, or disable, the agency's cell site simulator/pen register equipment.
12. Once signed, the conditions of this agreement remain in effect until rescinded in writing by the FBI, except that the agreement must be re-accomplished annually. If the State or municipal government, law enforcement agency, and prosecutor's office do not all agree to the annual renewal, or the annual agreement period otherwise expires (one year from the acknowledged and agreed date) without a completed renewal, or any one of them do not abide by the conditions of the agreement, the FBI reserves the right to rescind its endorsement of the law enforcement agency's acquisition and use of the equipment and to take all lawful action as indicated in condition 11. above.
13. The signing State or municipal government official and the signing law enforcement agency official affirm that any successors to their positions will be notified about this agreement and of the requirement to adhere to the conditions herein to ensure the agency's continued use of cell site simulator/pen register equipment/technology. Similarly, the signing law enforcement agency official affirms that any successor to the position of the chief prosecuting official will be notified of the separate prosecutorial non-disclosure agreement and of the requirement to adhere to that agreement in order to ensure the law enforcement agency's continued use of cell site simulator/pen register equipment/technology. In any instance of succession in this context, the law enforcement agency official will notify the FBI as indicated in condition 10. above.

[Redacted]

The acceptance of the above conditions shall be evidenced by the signatures below of authorized representatives of the [Redacted] and [Redacted]

Sincerely,

[Redacted Signature]

Operational Technology Division
Federal Bureau of Investigation

Acknowledged and agreed to this 23 day of December, 2014. Renewal is due in one year.

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[Redacted Signature]

[Redacted Signature]

[redacted] (IMD) (CON)

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From: [redacted]
Sent: Thursday, October 8, 2015 8:25 AM
To: [redacted] (OTD) (FBI); [redacted] (OTD) (FBI); [redacted] (OTD) (FBI); [redacted] (OTD) (FBI); [redacted] (UN) (FBI)
Cc: [redacted] (OTD)(FBI); [redacted] (OTD)(FBI); [redacted] (OTD)(FBI); [redacted] (OTD)(FBI); [redacted] (CD) (FBI)
Subject: FW: CSS Procurement NDA Exemplars --- UNCLASSIFIED//LES

Classification: UNCLASSIFIED//~~LES~~

(U) ~~LAW ENFORCEMENT SENSITIVE~~: The information marked (U//~~LES~~) in this document is the property of FBI and may be distributed within the Federal Government (and its contractors), US intelligence, law enforcement, public safety or protection officials and individuals with a need to know. Distribution beyond these entities without FBI authorization is prohibited. Precautions should be taken to ensure this information is stored and/or destroyed in a manner that precludes unauthorized access. Information bearing the LES caveat may not be used in legal proceedings without first receiving authorization from the originating agency. Recipients are prohibited from subsequently posting the information marked LES on a website or an unclassified network.

[redacted]
Per our conversation, I will send this part of the answer to [redacted] and advise that more is to come.
Reference: [redacted] tasking [redacted] STB tasking # [redacted]

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Thanks,

From: [redacted] (OTD)(FBI)
Sent: Wednesday, October 07, 2015 6:58 PM
To: [redacted]
Subject: FW: CSS Procurement NDA Exemplars --- UNCLASSIFIED//~~LES~~

Classification: UNCLASSIFIED//~~LES~~

(U) ~~LAW ENFORCEMENT SENSITIVE~~: The information marked (U//~~LES~~) in this document is the property of FBI and may be distributed within the Federal Government (and its contractors), US intelligence, law enforcement, public safety or protection officials and individuals with a need to know. Distribution beyond these entities without FBI authorization is prohibited. Precautions should be taken to ensure this information is stored and/or destroyed in a manner that precludes unauthorized access. Information bearing the LES caveat may not be used in legal proceedings without first receiving authorization from the originating agency. Recipients are prohibited from subsequently posting the information marked LES on a website or an unclassified network.

Response to [redacted] dated 10/05/2015 to provide NDA documents to DOJ [redacted]

b6 -1,4
b7C -1,4

From: [redacted] (OTD)(FBI)
Sent: Wednesday, October 07, 2015 6:54 PM

To: [REDACTED]

Subject: CSS Procurement NDA Exemplars --- UNCLASSIFIED//LES

b6 -4
b7C -4

Classification: UNCLASSIFIED//LES

=====
(U) ~~LAW ENFORCEMENT SENSITIVE~~: The information marked (U//LES) in this document is the property of FBI and may be distributed within the Federal Government (and its contractors), US intelligence, law enforcement, public safety or protection officials and individuals with a need to know. Distribution beyond these entities without FBI authorization is prohibited. Precautions should be taken to ensure this information is stored and/or destroyed in a manner that precludes unauthorized access. Information bearing the LES caveat may not be used in legal proceedings without first receiving authorization from the originating agency. Recipients are prohibited from subsequently posting the information marked LES on a website or an unclassified network.

[REDACTED]

b6 -4
b7C -4

In reference to our meeting earlier this week pertaining to cell site simulator NDAs, the attached documents represent original and current NDA documents for your review.



b3 -1
b5 -1
b7E -1



Federal Bureau of Investigation



Office
Executive Assistant

b6 -1
b7C -1
b7E -2

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Classification: UNCLASSIFIED//~~LES~~

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Classification: UNCLASSIFIED//~~LES~~

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Classification: UNCLASSIFIED//~~LES~~



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535-0001

December 1, 2014




b3 -1
b6 -3
b7C -3
b7E -1

Re: Acquisition of Cell Site Simulator/Pen Register Equipment/Technology
and Non-Disclosure Obligations

Dear 

b3 -1
b6 -3
b7C -3
b7E -1

We have been notified of the  request for acquisition of certain cell site simulator/pen register equipment providing cellular device locating and identifying capability. Consistent with the condition on the equipment authorization granted by the Federal Communications Commission, State and local law enforcement agencies must coordinate with the Federal Bureau of Investigation (FBI) to complete this non-disclosure agreement in order to acquire and use cell site simulator/pen register equipment/technology.

Law enforcement agencies rely on cellular device locating and identifying capability to help meet their law enforcement and public safety responsibilities. Disclosure of certain information about cell site simulator/pen register equipment and techniques to the public, such information referred to by the Federal Government as Law Enforcement Sensitive (LES), would allow adversaries of law enforcement to diminish or thwart law enforcement efforts, thereby enabling such adversaries to evade detection and circumvent the law. Disclosure of even minor details about this technology or its use may reveal more information than its apparent insignificance suggests because, much like a jigsaw puzzle, each detail may aid in piecing together other bits of information even when the individual piece is not of obvious importance in

itself. Thus, disclosure of what appears to be innocuous information about cell site simulators would provide adversaries with critical information about the capabilities, limitations, and circumstances of their use, and would allow those adversaries to accumulate information and draw conclusions about the use and technical capabilities of the technology. In turn, this would provide them the information necessary to develop defensive technology, modify their behaviors, and otherwise take countermeasures designed to thwart the use of this technology in order to evade detection by law enforcement and circumvent the law. Moreover, the same techniques, equipment, and tools used in criminal cases are often used in counterterrorism and counterintelligence investigations. Thus, compromise of the law enforcement community's investigational equipment and methods in a criminal case or a public records disclosure could have a significant detrimental impact on the national security of the United States.

Due to these concerns, the FBI has consistently asserted that the details concerning the use, implementation and application of cell site simulator technology is both law enforcement sensitive and protected homeland security information, and any disclosure could easily impair the use of this important investigative method. In recognition of this vulnerability, the FBI has, as a matter of policy, protected this category of electronic surveillance equipment and technique from disclosure, directing its agents that while general facts that a surveillance or location operation was conducted in connection with a specific case may be disclosed, neither details as to the equipment's operation nor the tradecraft involved may be disclosed. *See United States v. Rigmaiden*, 845 F.Supp. 982 (D.Ariz. 2012); *United States v. Garey*, 2004 WL 2663023 (M.D.Ga. Nov. 15, 2004).

As mentioned earlier, any information concerning cell site simulator equipment or technology (including, but not limited to information about the operation of the equipment or technology itself, limitations or capabilities of the equipment or technology, any training materials concerning the capabilities or technology, or tradecraft required to operate the equipment) authorized by the FBI to be provided to a state law enforcement agency is considered protected homeland security information under the Homeland Security Act ("HSA"). Under 6 U.S.C. § 482(e), homeland security information "obtained by a State or local government from a Federal agency under this section shall remain under the control of the Federal agency, and a

State or local law authorizing or requiring such government to disclose information shall not apply to such information.” The HSA defines “homeland security information” as information that relates to the ability to prevent, interdict, or disrupt terrorist activity; information that would improve the identification or investigation of a suspected terrorist or terrorist organization; or information that would improve the response to a terrorist act. *See* 6 U.S.C. §§ 482(f)(1)(B)-(D). Cell site simulator technology meets all three criteria. Accordingly, by signing this agreement, your agency agrees and understands that disclosure of protected homeland security information is specifically prohibited under Federal law, and that this law expressly preempts state and local disclosure laws under the Supremacy Clause (Article VI, clause 2) of the United States Constitution. *See, e.g., Lorillard Tobacco Co. v. Reilly*, 533 U.S. 525, 541 (2001) (as a general principle, Federal law preempts State law where Congress has said so explicitly).

Finally, by entering into this agreement, you acknowledge that you understand cell site simulator technology is a regulated defense article on the United States Munitions List (“USML”). *See* 22 C.F.R. § 121.1(b). As such, technical details concerning this technology are subject to the non-disclosure provisions of the International Traffic In Arms Regulations (“ITAR”), 22 C.F.R., Parts 120-130. The ITAR implements the Arms Export Control Act, 22 U.S.C. § 2778, and Executive Order 13,637, which control the export and import of defense-related articles and services listed on the USML. Because this equipment is explicitly governed by the ITAR, 22 C.F.R. § 123.1 requires anyone to obtain a license from the Department of State prior to making an export. Notably, technical information does not have to leave the borders of the United States to be deemed an export subject to the regulation. *See* 22 C.F.R. § 120.17 (defining an export as the disclosure of technical data about a defense article to a foreign national, even while located in the United States). Consequently, if a State or local government disseminates any part of the technical information to an entity knowing that the entity intends to or is likely to publish or further disseminate the information in some fashion that would make it accessible to non-U.S. citizens, or that the requesting entity employs or has any non-U.S. citizens present at its offices, this could constitute a violation of the Arms Control Export Act. Unauthorized disclosure of ITAR-controlled information is a felony punishable by up to 20 years imprisonment and up to \$1 million per occurrence. *See* 22 C.F.R., Part 127.

Accordingly, to preserve the continued efficacy of the capability for the Law Enforcement Community, the Department of Justice agrees to the following conditions in connection with the [REDACTED] acquisition and use of the cell site simulator/pen register equipment/technology:

b3 -1
b7E -1

1. The signing chief prosecuting official (CPO) affirms that he or she has the authority to lawfully obligate his or her agency to the conditions of this agreement. Moreover, the official affirms that appropriate legal counsel has determined the nondisclosure obligations herein are defensible under State law, as possibly augmented by Federal statutory protections, such as might be necessary for public records access requests, and that the agency will itself perform due diligence in meeting its nondisclosure obligations as and when necessary.
2. The signing CPO affirms that the above-named law enforcement agency's acquisition and use of cellular device identifying and locating capability is conditioned on this separate written non-disclosure agreement with the FBI. Furthermore, the CPO agrees that, after exhaustion of all other lawful means, including implementing advice and assistance from the FBI, the prosecuting agency will, at the request of the FBI, seek dismissal of the case in lieu of using or providing, or allowing others to use or provide, any sensitive information concerning the cell site simulator/pen register equipment/technology in criminal litigation.
3. The signing CPO affirms that the above-named law enforcement agency has statutory authority to lawfully employ this technology in support of public safety operations or criminal investigations.
4. The signing CPO affirms that he or she understands and acknowledges that this equipment, under Federal law, functions as a pen register device as defined in 18 U.S.C. §3127(3), and that 18 U.S.C. §3121(a) prohibits any person, including law enforcement, from operating a pen register device without first obtaining a court order, or having emergency pen register authority under either State or Federal law, as applicable.

5. The CPO's agency may, without first obtaining prior approval from the FBI, confirm or disclose in public for official business only, including for the purpose of obtaining relevant legal authority, the following: 1) the above-named law enforcement agency has cell site simulator/pen register equipment (without disclosing make and model) that provides the capability to locate or identify a cellular device, 2) a description of the legal authority relied upon for using the capability, 3) a description not containing LES information (see conditions 6. and 7. below) of the above-named law enforcement agency's policies or practices that ensure legal compliance and protection of third party privacy rights, 4) the fact that the capability might cause temporary disruption of service for certain cellular devices in the operating area, 5) that the equipment was used to determine general location information about the target cellular device, and 6) that the capability is a sensitive investigative technique so further details are protected and will not be publicly disclosed or confirmed. Note: The preceding provisions shall be narrowly and strictly construed. Any questions regarding interpretation or scope of these provisions must be addressed with the FBI prior to disclosure.


6. Except for the strictly constructed permission in condition 5. above or for necessary deliberations between relevant officials necessary for coordination of this nondisclosure agreement, criminal or civil litigation discovery considerations, or public records access request processing, in which the exercise of due diligence to protect LES information and timely notice to the FBI pursuant to this agreement is presumed, the prosecuting agency will not, absent written FBI approval, distribute, disseminate, disclose, or otherwise confirm any LES information, as determined by the FBI, concerning the cell site simulator/pen register equipment/technology to the public, including to any non-law enforcement individuals or agencies not otherwise part of this agreement. These restrictions include, but are not limited to, tradecraft, technical details, functional limitations or vulnerabilities, manufacturer, model name, hardware, software, operating manuals, related technical documentation (including technical/engineering descriptions and capabilities), line item costs, or related entries in acquisition, funding, grant, or

procurement documents, such documents often being susceptible to public disclosure by State or municipal financial authorities.

7. The signing CPO affirms on behalf of her or his agency that questions about or determinations of what constitutes LES or protected homeland security information will be deferred to the FBI. If the prosecuting agency receives a request or order to disclose any information about the cell site simulator equipment/technology, or learns of such anticipated activity, an appropriate official will immediately notify the FBI in order to allow sufficient time for the FBI to assist in protecting the equipment/technology.

All notifications or inquiries regarding this agreement and the subject capability shall be directed to the attention of:



Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A
Quantico, Virginia 22135
Telephone 

b6 -1
b7C -1
b7E -2, 3

8. The signing CPO understands and acknowledges that the above-named law enforcement agency's approval to acquire and use the cell site simulator is expressly conditioned on all relevant parties' execution of and adherence to this non-disclosure agreement with the FBI. In the event that the FBI determines the any party is failing to abide by the conditions in this agreement, the FBI may notify the vendor/manufacturer to discontinue services for, or disable, the agency's cell site simulator/pen register equipment.
9. Once signed, the conditions of this agreement remain in effect until rescinded in writing by the FBI, except that the agreement must be re-accomplished annually. If the State or

municipal government, law enforcement agency, and prosecutor's office do not all agree to the annual renewal, or the annual agreement period otherwise expires (one year from the acknowledged and agreed date) without a completed renewal, or any one of them do not abide by the conditions of the agreement, the FBI reserves the right to rescind its endorsement of the law enforcement agency's acquisition and use of the equipment and to take all lawful action as indicated in condition 8. above.

10. The CPO affirms that any successor to her or his position will be notified about this agreement and of the requirement to adhere to the conditions herein to ensure the above-named law enforcement agency's continued use of cell site simulator/pen register equipment/technology. In any instance of succession in this context, the CPO's agency will notify the FBI as indicated in condition 7. above.

The acceptance of the above conditions shall be evidenced by the signature below of the authorized representative of the Department of Justice

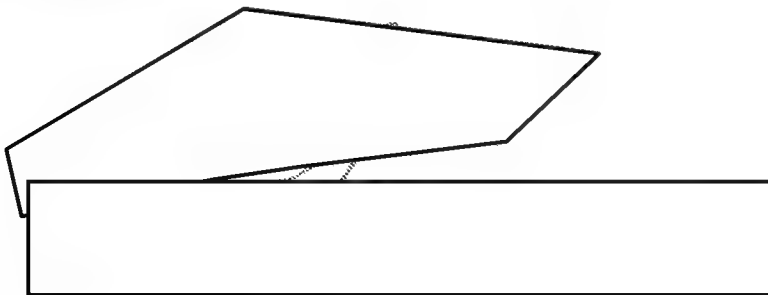
Sincerely,



Operational Technology Division
Federal Bureau of Investigation

b3 -1
b6 -1,2
b7C -1,2
b7E -1

Acknowledged and agreed to this 23rd day of December, 2014. Renewal is due in one year.



FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 21-cv-10719

Total Deleted Page(s) = 3
Page 1 ~ Duplicate;
Page 2 ~ Duplicate;
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FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 21-cv-10719

Total Deleted Page(s) = 1
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[Redacted] (IMD) (CON)

Sent: Wednesday, September 23, 2015 10:12 AM
To: [Redacted] (OTD) (FBI); [Redacted] (JN) (FBI)
Cc: [Redacted] (OTD)(FBI); [Redacted] (OTD)(CON); [Redacted] (OGC)(FBI); [Redacted] (OTD) (FBI); [Redacted] (OTD) (FBI); [Redacted] (OGC)(FBI); [Redacted] (OTD) (FBI)
Subject: RE: Assigned Task: CSS Procurement NDA --- UNCLASSIFIED//~~FOUO~~
Attachments: CSS Procurement NDA [Redacted].docx; DRAFT - NDA rescission letter - 09042015.docx

Classification: UNCLASSIFIED//~~FOUO~~

[Redacted] please see my position paper and draft NDA rescission letter attached. [Redacted] deadline is 10/01. Referring to the task summary below, it's not clear to me why [Redacted] (or her staff) is leaving it up to [Redacted] to

[Redacted]

From: [Redacted] (OTD) (FBI)
Sent: Tuesday, September 08, 2015 9:52 AM
To: [Redacted] (OTD)(FBI); [Redacted] (OTD)(CON)
Cc: [Redacted] (OTD) (FBI)
Subject: FW: Assigned Task: CSS Procurement NDA --- UNCLASSIFIED//~~FOUO~~

b5 -1
b6 -1
b7C -1
b7E -3

Classification: UNCLASSIFIED//~~FOUO~~

TRANSITORY RECORD

[Redacted] please see task below and respond by COB 9/30/2015. Template attached.

Title: CSS Procurement NDA
Classification: UNCLASSIFIED//~~FOUO~~
Priority: 4. Low
Tasking POC:
Originator: STB
Deadline: 10/1/2015 12:00 PM
Summary Of Request: Tasked to [Redacted]

Detailed Request Description: Background: PRIOR INFORMATION PACKETS PROVIDED TO THE [Redacted]

b5 -1
b7E -3

[Redacted]



b5 -1
b3 -1
b7E -1

Thanks,

[Redacted]

b6 -1
b7C -1
b7E -2

From: [Redacted]
Sent: Tuesday, September 08, 2015 9:47 AM
To: [Redacted] (OTD) (FBI); [Redacted] (OTD) (FBI); [Redacted] (OTD) (FBI); [Redacted] (FBI)
Subject: Assigned Task: CSS Procurement NDA

Hello,

You have been assigned as an approver on the following task: CSS Procurement NDA

Available Tracking Numbers

[Redacted] Tracking Number: [Redacted]

b7E -2,3

External Tracking Number:

[Redacted] [tasks](#)

The following are deadlines associated with this task:

Deadline: 10/1/2015 12:00:00 PM

This email was automatically sent, please do not reply.

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Classification: UNCLASSIFIED//~~FOUO~~

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Classification: UNCLASSIFIED//~~FOUO~~

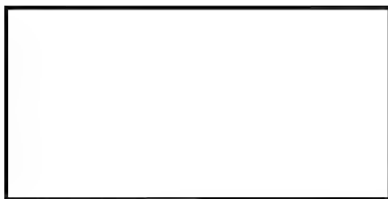


U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535-0001

March 25, 2014



b3 -1
b7E -1

Re: Acquisition of Wireless Collection Equipment/Technology and Non-Disclosure Obligations

~~LAW ENFORCEMENT SENSITIVE (LES)~~ The information in this document is the property of the Federal Bureau of Investigation (FBI) and may be distributed within the Federal Government (and its contractors), U.S. intelligence, law enforcement, public safety or protection officials and individuals with a need to know. Distribution beyond these entities without FBI Operational Technology Division authorization is prohibited. Precautions should be taken to ensure this information is stored and/or destroyed in a manner that precludes unauthorized access. Information bearing the LES caveat may not be used in legal proceedings without first receiving authorization from the originating agency. Recipients are prohibited from subsequently posting the information marked LES on a website on an unclassified network.

Dear

b3 -1
b7E -1

We have been advised by of the request for acquisition of certain wireless collection equipment/technology manufactured by . Consistent with the conditions on the equipment authorization granted to by the Federal Communications Commission (FCC), state and local law enforcement agencies must coordinate with the Federal Bureau of Investigation (FBI) to complete this non-disclosure agreement prior to the acquisition and use of the equipment/technology authorized by the FCC authorization.

As you are aware, law enforcement agencies increasingly rely on wireless collection equipment/technology to conduct lawfully-authorized electronic surveillance. Disclosing the existence of and the capabilities provided by such equipment/technology to the public would reveal sensitive technological capabilities possessed by the law enforcement community and may allow individuals who are the subject of investigation wherein this equipment/technology is used to employ countermeasures to avoid detection by law enforcement. This would not only potentially endanger the lives and physical safety of law enforcement officers and other

individuals, but also adversely impact criminal and national security investigations. That is, disclosure of this information could result in the FBI's inability to protect the public from terrorism and other criminal activity because, through public disclosures, this technology has been rendered essentially useless for future investigations. In order to ensure that such wireless collection equipment/technology continues to be available for use by the law enforcement community, the equipment/technology and any information related to its functions, operation, and use shall be protected from potential compromise by precluding disclosure of this information to the public in any manner including but not limited to: in press releases, in court documents, during judicial hearings, or during other public forums or proceedings. Accordingly, the [redacted] agrees to the following conditions in connection with its acquisition and use of the [redacted]

b3 -1
b7E -1

1. By entering into this agreement, the [redacted] affirms that it has statutory authority to lawfully employ this technology and will do so only in support of public safety operations or criminal investigations.
2. The [redacted] assumes responsibility for operating the equipment/technology in accordance with Federal law and regulation and accepts sole liability for any violations thereof, irrespective of the Federal Bureau of Investigation approval, if any, for the sale of the equipment/technology.
3. The [redacted] will ensure that operators of the equipment have met the operator training standards identified by the FBI and are certified to conduct operations.
4. The [redacted] will coordinate with the FBI in advance of its use of the wireless collection equipment/technology to ensure de-confliction of respective missions.
5. The [redacted] will not distribute, disseminate, or otherwise disclose any information concerning the wireless collection equipment/technology or any software, operating manuals, or related technical documentation (including its technical/engineering description(s) and capabilities) to the public, including to any non-law enforcement individuals or agencies.
6. The [redacted] will not distribute, disseminate, or otherwise disclose any information concerning the wireless collection equipment/technology or any software, operating manuals, or related technical documentation (including its technical/engineering description(s) and capabilities) provided to it to any other law enforcement or government agency without the prior written approval of the FBI. Prior to any approved distribution, dissemination, or comparable disclosure of any information concerning the wireless collection equipment/technology or any software, manuals, or related technical documentation related to such equipment/technology, all materials shall be marked "Law Enforcement Sensitive, For Official Use Only - Not to be Disclosed Outside of the [redacted]"
7. The [redacted] shall not, in any civil or criminal proceeding, use or provide any information concerning the [redacted]

b3 -1
b7E -1

[redacted] its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities) beyond the evidentiary results obtained through the use of the equipment/technology including, but not limited to, during pre-trial matters, in search warrants and related affidavits, in discovery, in response to court ordered disclosure, in other affidavits, in grand jury hearings, in the State's case-in-chief, rebuttal, or on appeal, or in testimony in any phase of civil or criminal trial, without the prior written approval of the FBI. If the [redacted] learns that a District Attorney, prosecutor, or a court is considering or intends to use or provide any information concerning the [redacted]

b3 -1
b7E -1

[redacted] its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities) beyond the evidentiary results obtained through the use of the equipment/technology in a manner that will cause law enforcement sensitive information relating to the technology to be made known to the public, the [redacted] will immediately notify the FBI in order to allow sufficient time for the FBI to intervene to protect the equipment/technology and information from disclosure and potential compromise.

Notification shall be directed to the attention of:

[redacted]

Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A
Quantico, Virginia 22135

b6 -1
b7C -1
b7E -2,3

[redacted]

and

[redacted]

Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Quantico, Virginia 22135

[redacted]

8. In addition, the [redacted] will, at the request of the FBI, seek dismissal of the case in lieu of using or providing, or allowing others to use or provide, any information concerning the [redacted] its associated software, operating manuals, and any related documentation (beyond the evidentiary results obtained through the use of the equipment/technology), if using or providing such information would potentially or actually compromise the equipment/technology. This point supposes that the agency has some control or influence over the prosecutorial process. Where such is not the case, or is limited so as to be inconsequential, it is the FBI's expectation that the law enforcement agency identify the applicable prosecuting agency, or agencies, for inclusion in this agreement.

b3 -1
b7E -1

9. A copy of any court order in any proceeding in which the [redacted] is a party directing disclosure of information concerning the [redacted] and any associated software, operating manuals, or related documentation (including its technical/engineering description(s) and capabilities) will immediately be provided to the FBI in order to allow sufficient time for the FBI to intervene to protect the equipment/technology and information from disclosure and potential compromise. Any such court orders shall be directed to the attention of:

b3 -1
b7E -1

[redacted]

Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A
Quantico, Virginia 22135

b6 -1
b7C -1
b7E -2,3

[redacted]

and

[redacted]

Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Quantico, Virginia 22135

[redacted]

10. The [redacted] will not publicize its acquisition or use of the [redacted] or any of the capabilities afforded by such equipment/technology to the public, other law enforcement agencies, or other government agencies, including, but not limited to, in any news or press releases, interviews, or direct or indirect statements to the media.

b3 -1
b7E -1

11. In the event that the [redacted] receives a request pursuant to the Freedom of Information Act (5 U.S.C. § 552) or an equivalent state or local law, the civil or criminal discovery process, or other judicial, legislative, or administrative process, to disclose information concerning the [redacted] wireless collection equipment/technology, its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities), the [redacted] will immediately notify the FBI of any such request telephonically and in writing in order to allow sufficient time for the FBI to seek to prevent disclosure through appropriate channels. Notification shall be directed to the attention of:

b3 -1
b7E -1

[Redacted]

Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A
Quantico, Virginia 22135

[Redacted]

and

[Redacted]

Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Quantico, Virginia 22135

[Redacted]

b6 -1
b7C -1
b7E -2,3

[redacted] acceptance of the above conditions shall be evidenced by the signatures below of an authorized representative and wireless collection equipment operators of [redacted]

Sincerely,

b3 -1
b6 -1
b7C -1
b7E -1

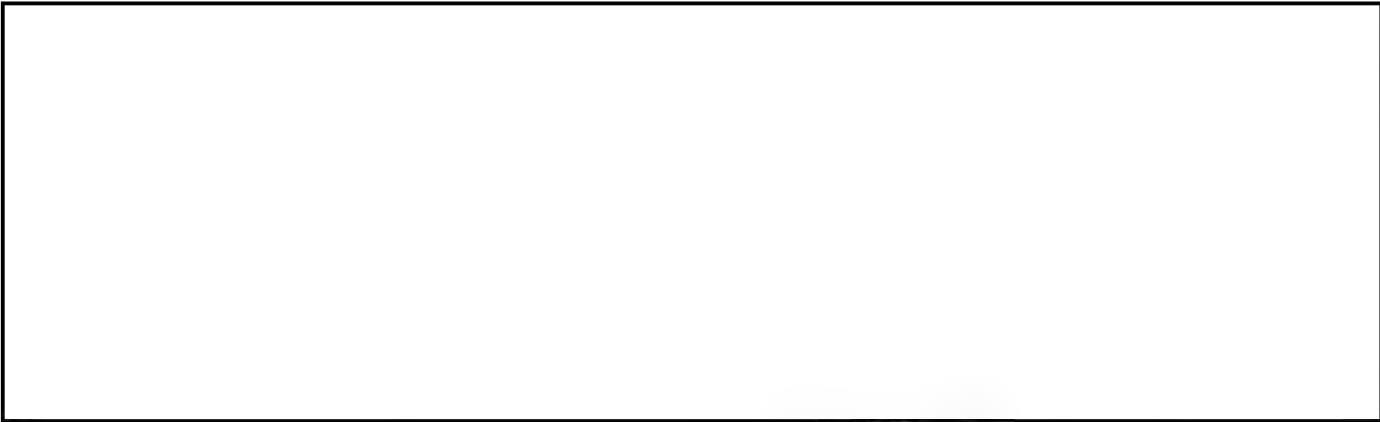
[redacted signature box]

Operational Technology Division
Federal Bureau of Investigation

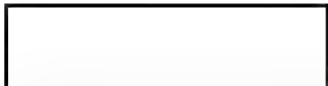
Acknowledged and agreed to this 27th day of March, 2014.

[redacted signature box]

b3 -1
b6 -2
b7C -2
b7E -1




June 17, 2014



Operational Technology Division
Federal Bureau of Investigation

b6 -1
b7C -1

Attn: 
Federal Bureau of Investigation

Re: Addendum to August 28, 2012 "Acquisition of Wireless Collection
Equipment/Technology and Non-Disclosure Obligation"

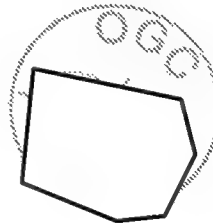
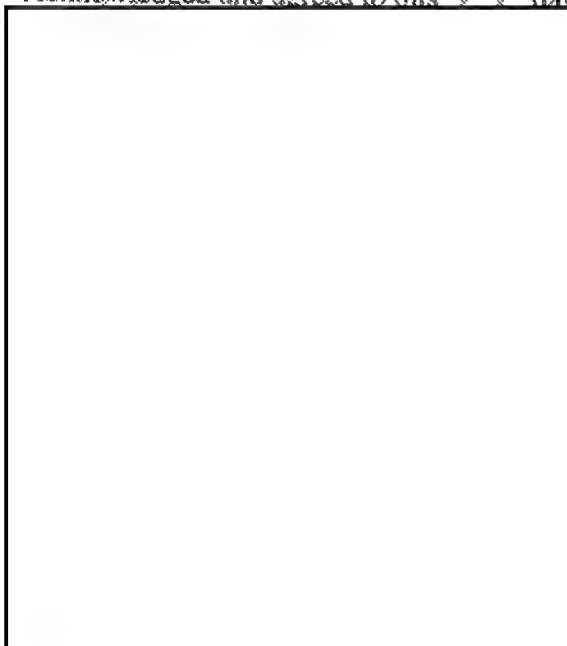
Continued from Page (6) of (6) of the fully executed Non-Disclosure Obligation:

b3 -1
b7E -1

The  acceptance of the above conditions shall be evidenced by the additional signatures below of an authorized representative and wireless collection equipment operators of the .

Having read and understood the agreement in its entirety, I agree to adhere completely to the rules and implications of this Non-Disclosure Obligation.

Acknowledged and agreed to this 19 day of June, 2014.



b3 -1
b6 -2
b7C -2
b7E -1

[Redacted]

b3 -1
b7E -1

17 March 2014

In Reply Please Refer to:

[Redacted]

Attention:

[Redacted]

b3 -1
b7E -1

Subject:

Restricted Software Request NDA

[Redacted]

Reference:

[Redacted]

Contractor respectfully requests approval to provide capability to the attached state & local law enforcement agency. Per the defined process, please contact this agency to execute the FBI NDA.

Sincerely,

[Redacted Signature]

b3 -1
b7E -1

b3 -1
b7E -1

[Redacted]

Contact information:

Operator information:

Senior Executive Level Manager that can accept responsibility for the proper use of equipment

b3 -1
b6 -2
b7C -2
b7E -1

All individuals that will be operating equipment within the department

NOTE: Failure to accurately complete this information will result in delay in NDA processing

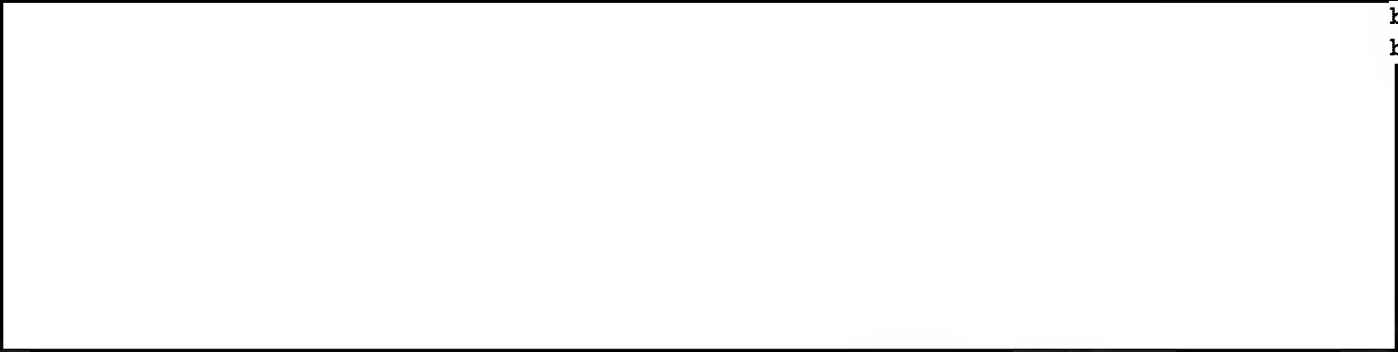
2 Senior Executive Level Manager that will accept responsibility for the proper use of equipment

Full Name of Applicant on NDA	Home/Cell	Mailing	Physical	Office	Cellular	Email
[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]

7 All individuals that will be operating equipment within the department

Full Name of Applicant on NDA	Home/Cell	Mailing	Physical	Office	Cellular	Email
[Redacted]						

b3 -1
b6 -2
b7C -2
b7E -1




September 15, 2014



Operational Technology Division
Federal Bureau of Investigation




b6 -1
b7C -1

Attn: 
Federal Bureau of Investigation

Re: Addendum to September 11, 2014 "Acquisition of Wireless Collection
Equipment/Technology and Non-Disclosure Obligation"

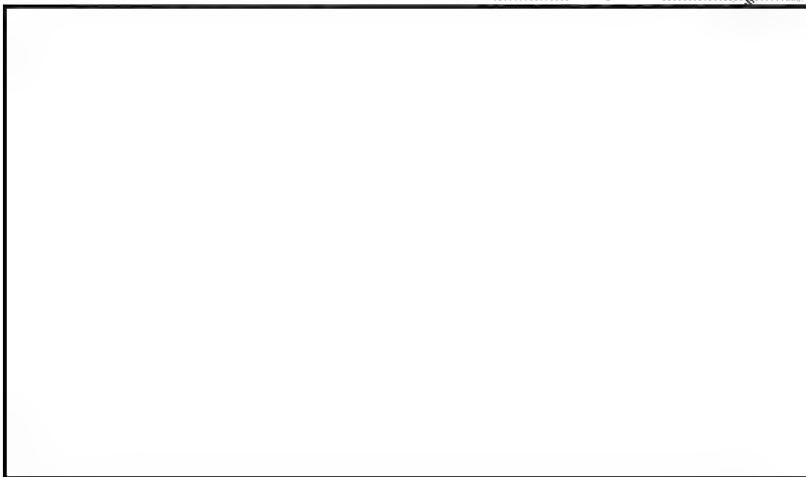
b3 -1
b7E -1

Continued from Page 6 of 6:

The  acceptance of the above conditions shall be
evidenced by the additional signatures below of an authorized representative and 


Having read and understood the agreement in its entirety, I agree to adhere completely to the rules
and implications of this Non-Disclosure Obligation.

Acknowledged and agreed to this 16 day of September, 2014.



b3 -1
b6 -2
b7C -2
b7E -1




December 10, 2014



Operational Technology Division
Federal Bureau of Investigation

b6 -1
b7C -1

Attn: 
Federal Bureau of Investigation

Re: Addendum to September 11, 2014 "Acquisition of Wireless Collection
Equipment/Technology and Non-Disclosure Obligation"

Continued from Page 6 of 6:

The  acceptance of the above conditions shall be evidenced by the additional signatures below of an authorized representative and 

b3 -1
b7E -1

Having read and understood the agreement in its entirety, I agree to adhere completely to the rules and implications of this Non-Disclosure Obligation.

Acknowledged and agreed to this 10 day of DECEMBER, 2014.



b3 -1
b6 -2
b7C -2
b7E -1

U.S. Department of Justice

Federal Bureau of Investigation



Washington, D.C. 20535-0001

September 11, 2014



b3 -1
b6 -2
b7C -2
b7E -1

Re: Acquisition of Wireless Collection Equipment/Technology and Non-Disclosure Obligations

~~LAW ENFORCEMENT SENSITIVE (LES)~~. The information in this document is the property of the Federal Bureau of Investigation (FBI) and may be distributed within the Federal Government (and its contractors), U.S. intelligence, law enforcement, public safety or protection officials and individuals with a need to know. Distribution beyond these entities without FBI Operational Technology Division authorization is prohibited. Precautions should be taken to ensure this information is stored and/or destroyed in a manner that precludes unauthorized access. Information bearing the LES caveat may not be used in legal proceedings without first receiving authorization from the originating agency. Recipients are prohibited from subsequently posting the information marked LES on a website on an unclassified network.

Dear

b3 -1
b6 -2
b7C -2
b7E -1

We have been advised by of the request for acquisition of certain wireless collection equipment/technology manufactured by . Consistent with the conditions on the equipment authorization granted to by the Federal Communications Commission (FCC), state and local law enforcement agencies must coordinate with the Federal Bureau of Investigation (FBI) to complete this non-disclosure agreement prior to the acquisition and use of the equipment/technology authorized by the FCC authorization.

As you are aware, law enforcement agencies increasingly rely on wireless collection equipment/technology to conduct lawfully-authorized electronic surveillance. Disclosing the existence of and the capabilities provided by such equipment/technology to the public would reveal sensitive technological capabilities possessed by the law enforcement community and may allow individuals who are the subject of investigation wherein this equipment/technology is used to employ countermeasures to avoid detection by law enforcement. This would not only potentially endanger the lives and physical safety of law enforcement officers and other

individuals, but also adversely impact criminal and national security investigations. That is, disclosure of this information could result in the FBI's inability to protect the public from terrorism and other criminal activity because, through public disclosures, this technology has been rendered essentially useless for future investigations. In order to ensure that such wireless collection equipment/technology continues to be available for use by the law enforcement community, the equipment/technology and any information related to its functions, operation, and use shall be protected from potential compromise by precluding disclosure of this information to the public in any manner including but not limited to: in press releases, in court documents, during judicial hearings, or during other public forums or proceedings. Accordingly, the [redacted] agrees to the following conditions in connection with its acquisition and use of the [redacted]

b3 -1
b7E -1

1. By entering into this agreement, the [redacted] affirms that it has statutory authority to lawfully employ this technology and will do so only in support of public safety operations or criminal investigations.
2. The [redacted] assumes responsibility for operating the equipment/technology in accordance with Federal law and regulation and accepts sole liability for any violations thereof, irrespective of the Federal Bureau of Investigation approval, if any, for the sale of the equipment/technology.
3. The [redacted] will ensure that operators of the equipment have met the operator training standards identified by the FBI and are certified to conduct operations.
4. The [redacted] will coordinate with the FBI in advance of its use of the wireless collection equipment/technology to ensure de-confliction of respective missions.
5. The [redacted] will not distribute, disseminate, or otherwise disclose any information concerning the wireless collection equipment/technology or any software, operating manuals, or related technical documentation (including its technical/engineering description(s) and capabilities) to the public, including to any non-law enforcement individuals or agencies.
6. The [redacted] will not distribute, disseminate, or otherwise disclose any information concerning the wireless collection equipment/technology or any software, operating manuals, or related technical documentation (including its technical/engineering description(s) and capabilities) provided to it to any other law enforcement or government agency without the prior written approval of the FBI. Prior to any approved distribution, dissemination, or comparable disclosure of any information concerning the wireless collection equipment/technology or any software, manuals, or related technical documentation related to such equipment/technology, all materials shall be marked "Law Enforcement Sensitive, For Official Use Only - Not to be Disclosed Outside of the [redacted]"

b3 -1
b7E -1

7. The [redacted] shall not, in any civil or criminal proceeding, use or provide any information concerning the [redacted] [redacted] its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities) beyond the evidentiary results obtained through the use of the equipment/technology including, but not limited to, during pre-trial matters, in search warrants and related affidavits, in discovery, in response to court ordered disclosure, in other affidavits, in grand jury hearings, in the State's case-in-chief, rebuttal, or on appeal, or in testimony in any phase of civil or criminal trial, without the prior written approval of the FBI. If the [redacted] [redacted] learns that a District Attorney, prosecutor, or a court is considering or intends to use or provide any information concerning the [redacted] [redacted] its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities) beyond the evidentiary results obtained through the use of the equipment/technology in a manner that will cause law enforcement sensitive information relating to the technology to be made known to the public, the [redacted] [redacted] will immediately notify the FBI in order to allow sufficient time for the FBI to intervene to protect the equipment/technology and information from disclosure and potential compromise.

b3 -1
b7E -1

Notification shall be directed to the attention of:

[redacted]

Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A
Quantico, Virginia 22135
(703) 985-6100

b6 -1
b7C -1
b7E -2,3

and

[redacted]

Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Quantico, Virginia 22135

[redacted]

8. In addition, the [redacted] will, at the request of the FBI, seek dismissal of the case in lieu of using or providing, or allowing others to use or provide, any information concerning the [redacted] [redacted] its associated software, operating manuals, and any related documentation (beyond the evidentiary results obtained through the use of the equipment/technology), if using or providing such information would potentially or actually compromise the equipment/technology. This point supposes that the agency has some control or influence over the prosecutorial process. Where such is not the case, or is limited so as to be inconsequential, it is the FBI's expectation that the law enforcement

b3 -1
b7E -1

agency identify the applicable prosecuting agency, or agencies, for inclusion in this agreement.

9. A copy of any court order in any proceeding in which the [redacted] is a party directing disclosure of information concerning the [redacted] and any associated software, operating manuals, or related documentation (including its technical/engineering description(s) and capabilities) will immediately be provided to the FBI in order to allow sufficient time for the FBI to intervene to protect the equipment/technology and information from disclosure and potential compromise. Any such court orders shall be directed to the attention of:

b3 -1
b7E -1

[redacted]

Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A
Quantico, Virginia 22135

b6 -1
b7C -1
b7E -2,3

[redacted]

and

[redacted]

Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Quantico, Virginia 22135

[redacted]

10. The [redacted] will not publicize its acquisition or use of the [redacted] or any of the capabilities afforded by such equipment/technology to the public, other law enforcement agencies, or other government agencies, including, but not limited to, in any news or press releases, interviews, or direct or indirect statements to the media.

b3 -1
b7E -1

11. In the event that the [redacted] receives a request pursuant to the Freedom of Information Act (5 U.S.C. § 552) or an equivalent state or local law, the civil or criminal discovery process, or other judicial, legislative, or administrative process, to disclose information concerning the [redacted] wireless collection equipment/technology, its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities), the [redacted] will immediately notify the FBI of any such request telephonically and in writing in order to allow sufficient time for the FBI to seek to prevent disclosure through appropriate channels. Notification shall be directed to the attention of:

[Redacted]

Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A
Quantico, Virginia 22135

[Redacted]

b6 -1
b7C -1
b7E -2,3

and

[Redacted]

Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Quantico, Virginia 22135
(703) 985-6840

The [redacted] acceptance of the above conditions shall be evidenced by the signatures below of an authorized representative and wireless collection equipment operators of the [redacted]

b3 -1
b7E -1

Sincerely,

[redacted signature box]

Operational Technology Division
Federal Bureau of Investigation

b3 -1
b6 -1,2
b7C -1,2
b7E -1

Acknowledged and agreed to this 10th day of September, 2014.

[redacted signature box]

[redacted signature box]

[redacted signature box]

[redacted signature box]



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535-0001

May 2, 2014



b3 -1
b6 -2
b7C -2
b7E -1

Re: Acquisition of Wireless Collection Equipment/Technology and Non-Disclosure Obligations

~~LAW ENFORCEMENT SENSITIVE (LES)~~ The information in this document is the property of the Federal Bureau of Investigation (FBI) and may be distributed within the Federal Government (and its contractors), U.S. intelligence, law enforcement, public safety or protection officials and individuals with a need to know. Distribution beyond these entities without FBI Operational Technology Division authorization is prohibited. Precautions should be taken to ensure this information is stored and/or destroyed in a manner that precludes unauthorized access. Information bearing the LES caveat may not be used in legal proceedings without first receiving authorization from the originating agency. Recipients are prohibited from subsequently posting the information marked LES on a website on an unclassified network.

b3 -1
b6 -2
b7C -2
b7E -1

Dear

We have been advised by of the request for acquisition of certain wireless collection equipment/technology manufactured by . Consistent with the conditions on the equipment authorization granted to by the Federal Communications Commission (FCC), state and local law enforcement agencies must coordinate with the Federal Bureau of Investigation (FBI) to complete this non-disclosure agreement prior to the acquisition and use of the equipment/technology authorized by the FCC authorization.

As you are aware, law enforcement agencies increasingly rely on wireless collection equipment/technology to conduct lawfully-authorized electronic surveillance. Disclosing the existence of and the capabilities provided by such equipment/technology to the public would reveal sensitive technological capabilities possessed by the law enforcement community and may allow individuals who are the subject of investigation wherein this equipment/technology is used to employ countermeasures to avoid detection by law enforcement. This would not only potentially endanger the lives and physical safety of law enforcement officers and other

individuals, but also adversely impact criminal and national security investigations. That is, disclosure of this information could result in the FBI's inability to protect the public from terrorism and other criminal activity because, through public disclosures, this technology has been rendered essentially useless for future investigations. In order to ensure that such wireless collection equipment/technology continues to be available for use by the law enforcement community, the equipment/technology and any information related to its functions, operation, and use shall be protected from potential compromise by precluding disclosure of this information to the public in any manner including but not limited to: in press releases, in court documents, during judicial hearings, or during other public forums or proceedings. Accordingly, the [redacted] agrees to the following conditions in connection with its acquisition and use of the [redacted]

b3 -1
b7E -1

1. By entering into this agreement, the [redacted] affirms that it has statutory authority to lawfully employ this technology and will do so only in support of public safety operations or criminal investigations.
2. The [redacted] assumes responsibility for operating the equipment/technology in accordance with Federal law and regulation and accepts sole liability for any violations thereof, irrespective of the Federal Bureau of Investigation approval, if any, for the sale of the equipment/technology.
3. The [redacted] will ensure that operators of the equipment have met the operator training standards identified by the FBI and are certified to conduct operations.
4. The [redacted] will coordinate with the FBI in advance of its use of the wireless collection equipment/technology to ensure de-confliction of respective missions.
5. The [redacted] will not distribute, disseminate, or otherwise disclose any information concerning the wireless collection equipment/technology or any software, operating manuals, or related technical documentation (including its technical/engineering description(s) and capabilities) to the public, including to any non-law enforcement individuals or agencies.
6. The [redacted] will not distribute, disseminate, or otherwise disclose any information concerning the wireless collection equipment/technology or any software, operating manuals, or related technical documentation (including its technical/engineering description(s) and capabilities) provided to it to any other law enforcement or government agency without the prior written approval of the FBI. Prior to any approved distribution, dissemination, or comparable disclosure of any information concerning the wireless collection equipment/technology or any software, manuals, or related technical documentation related to such equipment/technology, all materials shall be marked "Law Enforcement Sensitive, For Official Use Only - Not to be Disclosed Outside of the [redacted]"

b3 -1
b7E -1

7. The [redacted] shall not, in any civil or criminal proceeding, use or provide any information concerning the [redacted] [redacted] its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities) beyond the evidentiary results obtained through the use of the equipment/technology including, but not limited to, during pre-trial matters, in search warrants and related affidavits, in discovery, in response to court ordered disclosure, in other affidavits, in grand jury hearings, in the State's case-in-chief, rebuttal, or on appeal, or in testimony in any phase of civil or criminal trial, without the prior written approval of the FBI. If the [redacted] learns that a District Attorney, prosecutor, or a court is considering or intends to use or provide any information concerning the [redacted] [redacted] wireless collection equipment/technology, its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities) beyond the evidentiary results obtained through the use of the equipment/technology in a manner that will cause law enforcement sensitive information relating to the technology to be made known to the public, the [redacted] [redacted] will immediately notify the FBI in order to allow sufficient time for the FBI to intervene to protect the equipment/technology and information from disclosure and potential compromise.

b3 -1
b6 -2
b7C -2
b7E -1

Notification shall be directed to the attention of:

[redacted]

Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A
Quantico, Virginia 22135

b6 -1
b7C -1
b7E -2,3

[redacted]

and

[redacted]

Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Quantico, Virginia 22135

[redacted]

8. In addition, the [redacted] will, at the request of the FBI, seek dismissal of the case in lieu of using or providing, or allowing others to use or provide, any information concerning the [redacted] [redacted] its associated software, operating manuals, and any related documentation (beyond the evidentiary results obtained through the use of the equipment/technology), if using or providing such information would potentially or actually compromise the equipment/technology. This point supposes that the agency has some control or influence over the prosecutorial process. Where such is not the case, or is limited so as to be inconsequential, it is the FBI's expectation that the law enforcement

b3 -1
b7E -1

agency identify the applicable prosecuting agency, or agencies, for inclusion in this agreement.

9. A copy of any court order in any proceeding in which the [redacted] [redacted] is a party directing disclosure of information concerning the [redacted] and any associated software, operating manuals, or related documentation (including its technical/engineering description(s) and capabilities) will immediately be provided to the FBI in order to allow sufficient time for the FBI to intervene to protect the equipment/technology and information from disclosure and potential compromise. Any such court orders shall be directed to the attention of:

b3 -1
b7E -1

[redacted]

Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A
Quantico, Virginia 22135

[redacted]

and

b6 -1
b7C -1
b7E -2,3

[redacted]

Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Quantico, Virginia 22135

[redacted]

10. The [redacted] [redacted] will not publicize its acquisition or use of the [redacted] equipment/technology or any of the capabilities afforded by such equipment/technology to the public, other law enforcement agencies, or other government agencies, including, but not limited to, in any news or press releases, interviews, or direct or indirect statements to the media.

b3 -1
b7E -1

11. In the event that the [redacted] receives a request pursuant to the Freedom of Information Act (5 U.S.C. § 552) or an equivalent state or local law, the civil or criminal discovery process, or other judicial, legislative, or administrative process, to disclose information concerning the [redacted] wireless collection equipment/technology, its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities), the [redacted] will immediately notify the FBI of any such request telephonically and in writing in order to allow sufficient time for the FBI to seek to prevent disclosure through appropriate channels. Notification shall be directed to the attention of:

[Redacted]

Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A
Quantico, Virginia 22135

[Redacted]

and

[Redacted]

Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod B
Quantico, Virginia 22135

[Redacted]

b6 -1
b7C -1
b7E -2,3

The [redacted] acceptance of the above conditions shall be evidenced by the signatures below of an authorized representative and wireless collection equipment operators of the [redacted]

Sincerely,

[redacted signature box]

Operational Technology Division
Federal Bureau of Investigation

b3 -1
b6 -1
b7C -1
b7E -1

Acknowledged and agreed to this 23 day of May, 2014.

[redacted signature box]

[redacted signature box]

b3 -1
b6 -2
b7C -2
b7E -1

[redacted signature box]

[redacted signature box]

[redacted signature box]

[redacted signature box]

[Redacted]

UNCLASSIFIED

FEDERAL BUREAU OF INVESTIGATION

Electronic Communication

Title: (U) [Redacted] - 01/08
/2019 - 01/09/2019

Date: 01/17/2019

b7E -7

From: [Redacted]
[Redacted]

Contact: [Redacted]

Approved By: SSA [Redacted]

b6 -1
b7C -1
b7E -2,3

Drafted By: [Redacted]

Case ID #: [Redacted]

(U) [Redacted]

[Redacted]

Synopsis: (U) To document the use of [Redacted] CSS on 01/08/2019 and 01/09/2019 to locate a target cell phone.

Details:

On [Redacted] FBI [Redacted] requested [Redacted] assistance from [Redacted] to locate a gang fugitive wanted by the

[Redacted]

b3 -1
b6 -1,3
b7C -1,3
b7E -1,3

[Redacted] specifically in the [Redacted] area; however, [Redacted]

[Redacted] obtained a state search warrant for the use [Redacted] The [Redacted]

[Redacted]

[Redacted]

On 01/08/2019 and 01/09/2019, [Redacted] and [Redacted]

[Redacted]

[Redacted] (likely), [Redacted] The gang fugitive was subsequently arrested without incident in [Redacted] on [Redacted] All mission data was purged as required.

UNCLASSIFIED

[Redacted]

UNCLASSIFIED

b7E -6,7

Title: (U) [Redacted] - 01/08/2019 - 01/09/2019
Re: [Redacted] 01/17/2019

Below is a summary of the target phone parameters:

[Redacted]

- 1. FBI file number: [Redacted]
- 2. Other agency(ies) name if DTA: [Redacted]
- 3. Type of operation: Location
- 4. Result: Successful
- 5. [Redacted]
- 6. Type of legal authority: State search warrant
- 7. Legal authority jurisdiction: State of California - [Redacted]
[Redacted] Superior Court
- 8. Operator's certification statement about data deletion compliance: I, [Redacted]

b3 -1
b6 -1,3
b7C -1,3
b7E -1,6

[Redacted]

◆◆

UNCLASSIFIED

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 21-cv-10719

Total Deleted Page(s) = 3
Page 5 ~ b5 - -2;
Page 6 ~ b5 - -2;
Page 7 ~ b5 - -2;

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X Deleted Page(s) X
X No Duplication Fee X
X For this Page X
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[Redacted]
UNCLASSIFIED//~~FOUO~~

FEDERAL BUREAU OF INVESTIGATION

Electronic Communication

Title: (U) [Redacted] Interim Policy EC

Date: 07/18/2014 b7E -1

CC: FIELD OFFICES

From: OPERATIONAL TECHNOLOGY

Contact: [Redacted]

b3 -1
b6 -1
b7C -1
b7E -2,3

Approved By: [Redacted]

Drafted By: [Redacted]

b3 -1
b6 -1
b7C -1
b7E -3,6

Case ID #: [Redacted] (U//~~FOUO~~) [Redacted]

~~LAW ENFORCEMENT SENSITIVE~~

This information is the property of the FBI and may be distributed to state, tribal, or local government law enforcement officials with a need-to-know. Further distribution without FBI authorization is prohibited. Precautions should be taken to ensure this information is stored and/or destroyed in a manner that precludes unauthorized access.

Synopsis: (U//~~LES~~) Communication of interim policy regarding the deployment of [Redacted] technology.

b7E -1

Enclosure(s): Enclosed are the following items:

- 1. (U) Three page legal policy document.
- 2. (U) One page [Redacted] non-disclosure notice.

b7E -1

Details:

(U//~~LES~~) Effective immediately, the Deputy Director, in coordination

UNCLASSIFIED//~~FOUO~~

[REDACTED]
UNCLASSIFIED//~~FOUO~~ (U)

b3 -1
b7E -3,6

Title: (U) [REDACTED] Interim Policy EC
Re: [REDACTED] 07/18/2014

with the [REDACTED] and the [REDACTED]
[REDACTED] has directed that the attached three page guidance will serve
as the new, interim policy on the deployment of [REDACTED] b7E -1,3,5
[REDACTED] equipment, also known as [REDACTED]
[REDACTED] until superseded by the forthcoming
[REDACTED] Accordingly, all guidance
currently contained in [REDACTED] which conflicts in any
way with the attached policy is superseded.

(U//~~LES~~) The [REDACTED] has also directed this guidance will
govern the deployment of [REDACTED] equipment and personnel in support of
[REDACTED] missions by the FBI. Where this interim
guidance conflicts with requirements in [REDACTED] b7E -3,5
[REDACTED], this interim guidance will
control as an exception to [REDACTED] until the [REDACTED] is revised
accordingly. When providing [REDACTED] services during a [REDACTED]
[REDACTED] mission, all FBI personnel must notify the [REDACTED]
[REDACTED] and the chief prosecutor(s) of the jurisdiction(s) in
which the [REDACTED] assistance will be provided that the receipt of FBI [REDACTED]
assistance is expressly conditioned on the nondisclosure provisions
governing FBI information, as set forth in [REDACTED] and
[REDACTED] as well as in FBI policies on the protection, use, and
dissemination of LES information and in any separate NDAs that may be
in effect that treat LES matters. Prior to providing any [REDACTED]
assistance, the approved notification language (attached) must be sent
in writing or via e-mail to the RAO and the chief prosecutor(s), as
applicable. Both the [REDACTED] must acknowledge receipt
of the notice either in writing or via e-mail before FBI personnel can
begin using the [REDACTED] equipment. Both the notification and the
acknowledgements must be serialized and uploaded to the substantive
domestic assistance case file opened for the case. **All FBI personnel
should note the interim policy merely requires notice, and an
acknowledgement of receipt of our policy limitations on the provision
of [REDACTED] assistance - neither the [REDACTED] nor the [REDACTED] are**

UNCLASSIFIED//~~FOUO~~

[Redacted]

UNCLASSIFIED//~~FOUO~~

Title: (U) [Redacted] Interim Policy EC
Re: [Redacted] 07/18/2014

b3 -1
b7E -3,6

required to sign the document, and formal execution of a non-disclosure agreement is not required. FBI personnel may not amend, edit or change the approved notification language without the prior approval of the [Redacted] OTD.

(U//~~LES~~) Finally, all FBI personnel are reminded all FBI [Redacted] [Redacted] is considered law enforcement sensitive (LES). Only the [Redacted] or his written designee [not delegable below the [Redacted] level]), may authorize the release, disclosure, sharing, decontrol, or sanitization of LES information concerning the [Redacted] program in accordance with [Redacted]

[Redacted]

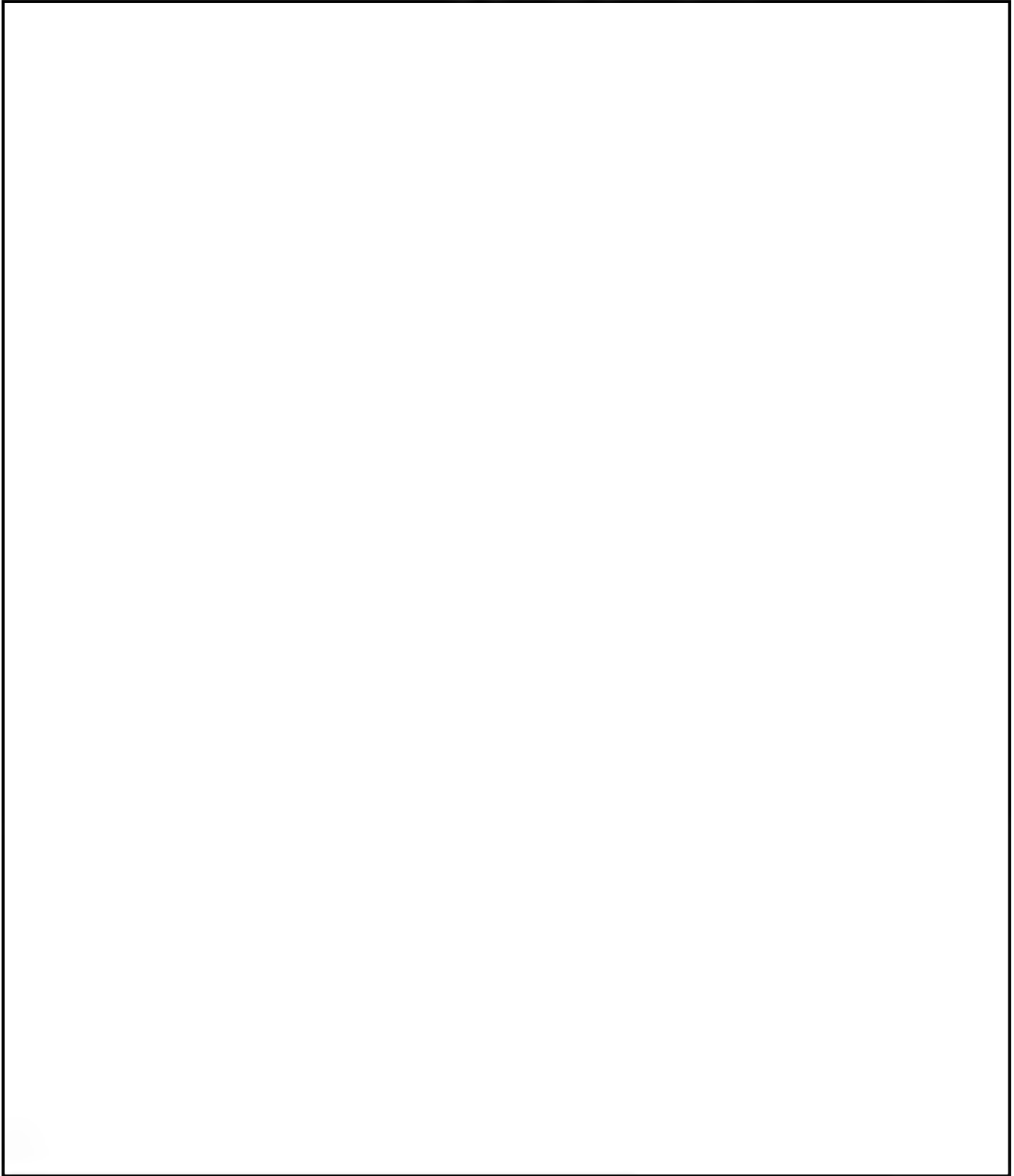
[Redacted] Field office personnel are reminded that, while delegated the authority to approve [Redacted] requests, field office personnel do not have authority under [Redacted] to approve the release, disclosure, sharing, decontrol, or sanitization of any LES information beyond the absolute minimum necessary to effectuate the actual provision of [Redacted] This limited authorization does not include authority to release, disclose, share, decontrol, or sanitize LES information for discovery or disclosure in connection with legal or administrative proceedings. Violations must be reported to the [Redacted] of the FBI division with programmatic responsibility and control over the equipment, technology, or method; the [Redacted] and the appropriate [Redacted] [Redacted] for appropriate disposition. Questions should be referred to [Redacted] at [Redacted] [Redacted] at [Redacted]

b6 -1
b7C -1
b7E -2,3,5

◆◆

UNCLASSIFIED//~~FOUO~~

April 15, 2014



b7E -1

[Redacted]

UNCLASSIFIED

FEDERAL BUREAU OF INVESTIGATION

Import Form

Form Type: EMAIL

Date: 03/24/2016

Title: (U) email open records

Approved By: [Redacted]

b6 -1
b7C -1

Drafted By: [Redacted]

Case ID #: [Redacted]

(U) [Redacted]

[Redacted]

b3 -1
b5 -2
b7E -1,6

Synopsis: (U) Email concerning [Redacted] Opens Records request

◆◆

UNCLASSIFIED

[Redacted] (FBI)

From: [Redacted] (FBI)
Sent: Wednesday, March 23, 2016 11:28 AM
To: [Redacted] (FBI)
Cc: [Redacted] (FBI); [Redacted] (FBI); [Redacted] (FBI); [Redacted] (FBI); [Redacted] (CON); [Redacted] (FBI); [Redacted] (FBI)
Subject: [Redacted] Open Records request --- UNCLASSIFIED//~~FOUO~~
SentinelCaseId: NON-RECORD

Classification: UNCLASSIFIED//~~FOUO~~

b3 -1
b5 -1,2
b6 -1,2
b7C -1,2
b7E -1

Mr. [Redacted]

[Large Redacted Area]

If you have any questions please let me know.

Thanks,

[Redacted]

b6 -1
b7C -1

=====
Classification: UNCLASSIFIED//~~FOUO~~

[redacted] (FBI)

From: [redacted]
Sent: Wednesday, March 23, 2016 10:35 AM
To: [redacted] (FBI) [redacted] (FBI)
Cc: [redacted]
Subject: RE: Open Records Request - Cell Site Simulator

b5 -1,2
b6 -1,2
b7C -1,2
b7E -1

-----Original Message-----

From: [redacted] (FBI) [mailto:[redacted]]
Sent: Wednesday, March 23, 2016 9:06 AM
To: [redacted]
Cc: [redacted] (FBI)
Subject: RE: Open Records Request - Cell Site Simulator

b3 -1
b5 -1,2
b6 -1,2
b7C -1,2
b7E -1

[redacted]
Has this been resolved? I just wanted to follow-up with you. [redacted]

Thanks a lot.

[redacted] Division FBI

CC: [redacted] Division FBI

-----Original Message-----

From: [redacted] [mailto:[redacted]]
Sent: Friday, March 11, 2016 2:13 PM
To: [redacted] (FBI)
Cc: [redacted] (FBI)
Subject: RE: Open Records Request - Cell Site Simulator

b3 -1
b5 -1,2
b6 -1,2
b7C -1,2
b7E -1

-----Original Message-----

From: [redacted] (FBI) [mailto:[redacted]]
Sent: Friday, March 11, 2016 1:16 PM
To: [redacted]
Cc: [redacted] (FBI)
Subject: FW: Open Records Request - Cell Site Simulator

Have a good week-end! [redacted]

-----Original Message-----

From: [redacted] (OTD) (FBI)
Sent: Wednesday, March 09, 2016 12:04 PM
To: [redacted] (FBI)
Cc: [redacted] (FBI); [redacted] (FD) (CON); [redacted] (OTD) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: Open Records Request - Cell Site Simulator

(U//~~FOUO~~ - Deliberative Process Material) Hi, [redacted]
[redacted]

[redacted]

[redacted]
[redacted]

b5 -1,2
b6 -1
b7C -1
b7E -2,3

Operational Technology Division
Federal Bureau of Investigation
office: [redacted]

From: [redacted] (OGC) (FBI)
Sent: Tuesday, March 08, 2016 3:04 PM
To: [redacted] (FBI); [redacted] (OGC) (FBI)
Cc: [redacted] (FBI); [redacted] (FD) (CON); [redacted] (OTD) (FBI)
Subject: RE: Open Records Request - Cell Site Simulator

[redacted]

Copying [redacted] in OTD - [redacted]

[redacted]

[redacted]
[redacted]

b6 -1
b7C -1
b7E -1,2,3

Federal Bureau of Investigation
Office of the General Counsel
Office: [redacted]
BB: [redacted]
E-Mail: [redacted]

Confidentiality Statement: This message is transmitted to you by the Office of the [redacted] of the Federal Bureau of Investigation. The message, along with any attachments, may be confidential and legally privileged. If you are not the intended recipient of this message, please destroy it promptly without further retention or dissemination (unless otherwise required by law). Please notify the sender of the error by a separate e-mail or by calling [redacted]

From: [redacted] (FBI)
Sent: Tuesday, March 08, 2016 10:37 AM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Cc: [redacted] (FBI); [redacted] (FD) (CON)
Subject: FW: Open Records Request - Cell Site Simulator

b3 -1
b5 -1,2
b6 -1,2
b7C -1,2
b7E -1

[redacted] and [redacted]
I left you a message. [redacted] I forgot you handled this matter last time; or I would
called you (I didn't see you contact info on OGC's web-site readily).

Anyway [redacted]
[redacted]

Please feel free to correspond to [redacted] directly, but please keep us in the loop so we can
keep our Executive Management apprised.

CDC [redacted] Division FBI

CC: SSA [redacted] PLS [redacted]

b6 -1,2
b7C -1,2

From: [redacted] [mailto:[redacted]] [mailto:[redacted]]
Sent: Tuesday, March 08, 2016 8:55 AM
To: [redacted] (FBI)
Subject: FW: Open Records Request - Cell Site Simulator

The request we spoke about is attached.

From: [redacted]
Sent: Monday, March 07, 2016 3:43 PM
To: [redacted]
Subject: Open Records Request - Cell Site Simulator

b3 -1
b5 -1,2
b6 -2,4
b7C -2,4
b7E -1

From: [redacted]
Sent: Monday, March 07, 2016 2:44 PM
To: [redacted]
Cc: [redacted]
Subject: FW: Cell site simulator info request

[redacted]

[Redacted]

[Redacted]

b3 -1
b5 -1,2
b6 -2,4
b7C -2,4
b7E -1

From: [Redacted]
Sent: Monday, March 07, 2016 10:42 AM
To: [Redacted]
Subject: FW: Cell site simulator info request

[Redacted] and [Redacted]

Please see attached [Redacted]

[Redacted]

From: [Redacted].org<mailto:[Redacted]>
[mailto:[Redacted]]
Sent: Friday, March 04, 2016 1:54 PM
To: [Redacted]
Subject: Cell site simulator info request

Hi, [Redacted]

[Redacted] Thanks!

[Redacted]

[REDACTED]

Subscribe to [REDACTED]

[REDACTED]

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[redacted] (FBI)

From: [redacted]
Sent: Tuesday, March 08, 2016 1:26 PM
To: [redacted] (FBI)
Cc: [redacted] (FBI)
Subject: RE: Open Records Request for Non-Disclosure Agreement [redacted] and FBI

Thanks for the update.

[redacted]

b3 -1
b6 -1,2,3
b7C -1,2,3
b7E -1,2

From: [redacted] (FBI) [mailto:[redacted]]
Sent: Tuesday, March 08, 2016 1:21 PM
To: [redacted]
Cc: [redacted] (FBI)
Subject: RE: Open Records Request fo [redacted]

I cc'dhim above. He goes by [redacted]

We forwarded the request to our [redacted] I am not sure if [redacted] is still in the position. We are waiting to hear from [redacted] He should be getting back to us or you shortly. If you don't hear anything, feel free to reach out to me or [redacted]

b6 -1,2
b7C -1,2
b7E -2

[redacted]

Good to work with you [redacted] Keep us posted as we will you. Thanks a lot. [redacted]

--

----- Original message -----

From: [redacted]
Date: 03/08/2016 1:09 PM (GMT-06:00)
To: [redacted] (FBI)" [redacted]
Subject: RE: Open Records Request for [redacted]

b3 -1
b6 -1,2,3
b7C -1,2,3
b7E -1,2

[redacted]

I didn't get the new guy's email right, and I didn't write down his name either. Can you sent that along to me so that I will have a correct point of contact next time?

[redacted]

From: [redacted] (FBI) [redacted]
Sent: Tuesday, March 08, 2016 9:28 AM
To: [redacted]
Cc: [redacted]
Subject: RE: Open Records Request for [redacted]

b6 -1,2,3
b7C -1,2,3
b7E -2

Thank you [redacted] We will coordinate with our [redacted]

Thanks you –
[redacted]

From: [redacted]
Sent: Tuesday, March 08, 2016 8:51 AM
To: [redacted] (FBI)
Cc: [redacted]
Subject: FW: Open Records Request for [redacted]

fyi

From: [redacted] (OGC) (FBI) [mailto:[redacted]]
Sent: Wednesday, February 25, 2015 3:54 PM
To: [redacted]
Cc: [redacted] (OGC) (FBI)
Subject: RE: Open Records Request for [redacted]

b6 -1,2,3
b7C -1,2,3
b7E -2

[redacted]
The FBI has no objections to [redacted] releasing the NDA in this particular instance.
Thanks for working with us on this important matter,

[redacted]
[redacted]

Federal Bureau of Investigation
(Office) [redacted]
(Cell) [redacted]
(Fax) [redacted]

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From: [redacted]
Sent: Wednesday, February 25, 2015 9:32 AM
To: [redacted] (OGC) (FBI)
Cc: [redacted]
Subject: FW: Open Records Request for [redacted]

b6 -1,3
b7C -1,3
b7E -2

[redacted]
I have received your voice message and pursuant to that message I am sending my email address, along with that of my colleague [redacted] who also works on Open Records Act requests for the [redacted]
[redacted]

I look forward to hearing from you regarding the Nondisclosure Notice/Letter Agreement pertaining to cell phone location technology.

[redacted]
b3 -1
b6 -2, 3
b7C -2, 3
b7E -1

From: [redacted] Records Unit]

Sent: Tuesday, February 03, 2015 10:56 AM

To: [redacted]

Subject: Open Records Request for [redacted]

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[Redacted] (FBI)

From: [Redacted]
Sent: Tuesday, March 08, 2016 1:08 PM
To: [Redacted] (FBI)
Subject: RE: Open Records Request for [Redacted]

I didn't get the new guy's email right, and I didn't write down his name either. Can you sent that along to me so that I will have a correct point of contact next time?

b3 -1
b6 -1,2,3
b7C -1,2,3
b7E -1

[Redacted]

From: [Redacted] (FBI) [Redacted]
Sent: Tuesday, March 08, 2016 9:28 AM
To: [Redacted]
Cc: [Redacted]
Subject: RE: Open Records Request for [Redacted]

b6 -1,2,3
b7C -1,2,3
b7E -2

Thank you [Redacted] We will coordinate with our [Redacted]

Thanks you -

[Redacted]

From: [Redacted] [mailto:[Redacted]]
Sent: Tuesday, March 08, 2016 8:51 AM
To: [Redacted] (FBI)
Cc: [Redacted]
Subject: FW: Open Records Request for [Redacted]

fyi

From: [Redacted] (OGC) (FBI) [mailto:[Redacted]]
Sent: Wednesday, February 25, 2015 3:54 PM
To: [Redacted]
Cc: [Redacted] (OGC) (FBI)
Subject: RE: Open Records Request for [Redacted]

b3 -1
b6 -1,2,3
b7C -1,2,3
b7E -1,2

The FBI has no objections to [Redacted] releasing the NDA in this particular instance. Thanks for working with us on this important matter,

[Redacted]

[Redacted]
Federal Bureau of Investigation
(Office) [Redacted]
(Cell) [Redacted]
(Fax) [Redacted]

b7E -2,3

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[Redacted]

From: [Redacted]
Sent: Wednesday, February 25, 2015 9:32 AM
To: [Redacted] OGC (FBI)
Cc: [Redacted]
Subject: FW: Open Records Request for [Redacted]

b3 -1
b6 -1,2,3
b7C -1,2,3
b7E -1,2

[Redacted]
I have received your voice message and pursuant to that message I am sending my email address, along with that of my colleague [Redacted] who also works on Open Records Act requests for the [Redacted]
[Redacted]

I look forward to hearing from you regarding the Nondisclosure Notice/Letter Agreement pertaining to cell phone location technology.

[Redacted]
[Redacted]
From: [Redacted] Records Unit]
Sent: Tuesday, February 03, 2015 10:56 AM
To: [Redacted]

Subject: Open Records Request for [Redacted]

CONFIDENTIALITY NOTE: This e-mail message and any attachments are intended solely for the person to which it is addressed and may contain privileged and confidential information protected by law. If you have received this communication in error, please notify the sender immediately by telephone or e-mail, destroy this message and delete any copies held in your electronic files. Unauthorized use and/or re-disclosure may subject you to penalties under applicable state and federal laws.

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[Redacted]

UNCLASSIFIED

FEDERAL BUREAU OF INVESTIGATION

Import Form

Form Type: EMAIL

Date: 04/21/2016

Title: (U) Legal Advice [Redacted]

Approved By: [Redacted]

Drafted By: [Redacted]

b5 -2
b6 -1
b7C -1
b7E -3,6

Case ID #: [Redacted]

(U) [Redacted]

[Redacted]

Synopsis: (U) OTD Policy

◆◆

UNCLASSIFIED

[Redacted]

(CON)

From: [Redacted] (FBI)
Sent: Wednesday, April 20, 2016 10:03 AM
To: [Redacted] (CON)
Subject: FW: [Redacted] Non-Disclosure Agreement --- UNCLASSIFIED//~~FOUO~~

b3 -1
b6 -1
b7C -1
b7E -1

SentinelCaseId: NON-RECORD

Classification: UNCLASSIFIED//~~FOUO~~
DELIBERATIVE PROCESS PRIVILEGED DOCUMENT
=====

Administrative

From: [Redacted] (FBI)
Sent: Thursday, March 24, 2016 4:56 PM
To: [Redacted] (FBI)
Cc: [Redacted] (FBI); [Redacted] (FBI); [Redacted] (FBI)
Subject: RE: [Redacted] Non-Disclosure Agreement --- UNCLASSIFIED//~~FOUO~~

b3 -1
b6 -1
b7C -1
b7E -1

Classification: UNCLASSIFIED//~~FOUO~~
DELIBERATIVE PROCESS PRIVILEGED DOCUMENT
=====

Thanks [Redacted] The attachment will be useful if we receive an inquiry. Please keep it handy.

[Redacted]

From: [Redacted] (FBI)
Sent: Thursday, March 24, 2016 1:15 PM
To: [Redacted] (FBI)
Cc: [Redacted] (FBI); [Redacted] (FBI); [Redacted] (FBI)
Subject: FW: [Redacted] Non-Disclosure Agreement --- UNCLASSIFIED//~~FOUO~~

b3 -1
b6 -1
b7C -1
b7E -1

Classification: UNCLASSIFIED//~~FOUO~~
DELIBERATIVE PROCESS PRIVILEGED DOCUMENT
=====

Mr [Redacted]

Here is the response provided by OTD as to how to respond to inquiries regarding the CSS. I will read through this guidance as well to make sure we are prepared to respond in accordance with the policy if this situation arises.

Thanks,

[Redacted]

From: [Redacted] (OTD) (FBI)

Sent: Thursday, March 24, 2016 8:54 AM

To: [redacted] (FBI)
Cc: [redacted] (FBI); [redacted] (OTD) (FBI); [redacted] (OTD) (FBI); [redacted] (OTD) (FBI); [redacted] (OPA) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (FBI); [redacted] (FBI)
Subject: RE: [redacted] Non-Disclosure Agreement --- UNCLASSIFIED//~~FOUO~~

b3 -1
b5 -1,2
b6 -1
b7C -1
b7E -1

Classification: UNCLASSIFIED//~~FOUO~~
DELIBERATIVE PROCESS PRIVILEGED DOCUMENT
=====

(U//~~FOUO~~) [redacted] as I understand this situation, [redacted]

[redacted]

(U//~~FOUO~~) All that out of the way [redacted]

[redacted]

<< File [redacted] April 2015.pdf >>

(U) Naturally, the stakeholders copied herein might wish to give their perspectives...

From: [redacted] (FBI)
Sent: Wednesday, March 23, 2016 5:55 PM
To: [redacted] (OTD) (FBI)
Cc: [redacted] (FBI)
Subject: [redacted] Non-Disclosure Agreement --- UNCLASSIFIED//~~FOUO~~

b3 -1
b5 -1,2
b6 -1
b7C -1
b7E -1

Classification: UNCLASSIFIED//~~FOUO~~
=====

[redacted]

[redacted]

Please provide whatever guidance you can on this issue.

Thanks again,

[redacted]



=====
Classification: UNCLASSIFIED//~~FOUO~~

=====
Classification: UNCLASSIFIED//~~FOUO~~

=====
Classification: UNCLASSIFIED//~~FOUO~~

=====
Classification: UNCLASSIFIED//~~FOUO~~

=====
Classification: UNCLASSIFIED//~~FOUO~~

[Redacted]

UNCLASSIFIED

FEDERAL BUREAU OF INVESTIGATION

Import Form

Form Type: EMAIL

Date: 04/21/2016

Title: (U) Legal Advice [Redacted]

Approved By: [Redacted]

Drafted By: [Redacted]

Case ID #: [Redacted]

(U) [Redacted]

[Redacted]

b5 -2
b6 -1
b7C -1
b7E -3,6

Synopsis: (U) Legal Advice, OTD/non-disclosure

◆◆

UNCLASSIFIED

[redacted] (CON)

From: [redacted] (FBI)
Sent: Wednesday, April 20, 2016 10:04 AM
To: [redacted] (CON)
Subject: FW: [redacted] Open Records request --- UNCLASSIFIED//~~FOUO~~

SentinelCaseId: NON-RECORD

Classification: UNCLASSIFIED//~~FOUO~~
=====

b3 -1
b6 -1
b7C -1
b7E -1

[redacted]

Administrative please.

Thanks,

[redacted]

From: [redacted] (FBI)
Sent: Wednesday, March 23, 2016 3:18 PM
To: [redacted] (FBI)
Cc: [redacted] (FBI); [redacted] (FBI); [redacted] (CON); [redacted] (FBI); [redacted] (FBI)
Subject: RE: [redacted] Open Records request --- UNCLASSIFIED//~~FOUO~~

b3 -1
b6 -1
b7C -1
b7E -1

Classification: UNCLASSIFIED//~~FOUO~~
=====

[redacted]

I agree on all counts. Thanks for filling me in. We should seek OTD guidance on how to proceed if this results in inquiries to us.

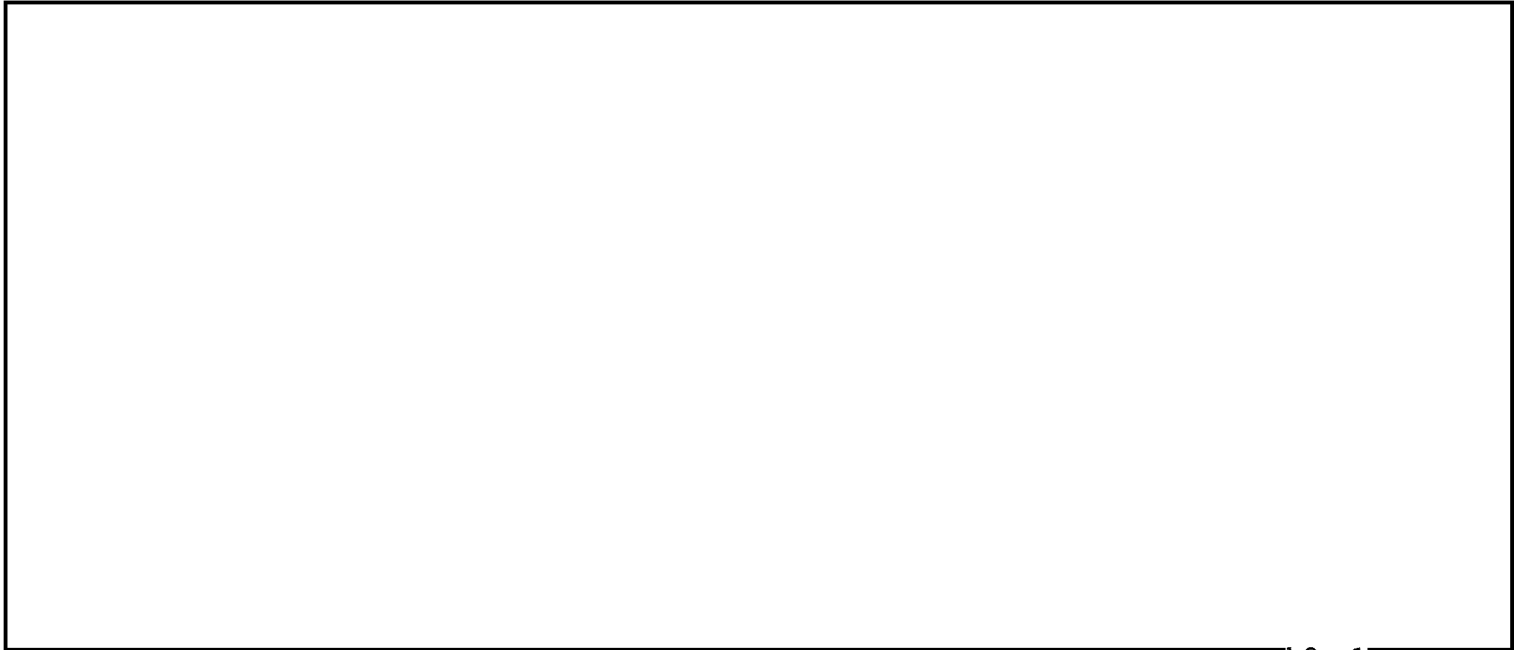
Thanks,

[redacted]

From: [redacted] (BI)
Sent: Wednesday, March 23, 2016 11:28 AM
To: [redacted] (FBI)
Cc: [redacted] (FBI); [redacted] (FBI); [redacted] (CON); [redacted] (FBI); [redacted] (FBI)
Subject: [redacted] Open Records request --- UNCLASSIFIED//~~FOUO~~

Classification: UNCLASSIFIED//~~FOUO~~
=====

Mr. [redacted]



If you have any questions please let me know.

b3 -1
b5 -1
b6 -1
b7C -1
b7E -1

Thanks,



=====
Classification: UNCLASSIFIED//~~FOUO~~

=====
Classification: UNCLASSIFIED//~~FOUO~~

=====
Classification: UNCLASSIFIED//~~FOUO~~

[Redacted]

UNCLASSIFIED//~~FOUO~~

FEDERAL BUREAU OF INVESTIGATION

Import Form

Form Type: OTHER

Date: 06/09/2016

Title: (U//~~FOUO~~) [Redacted] & Non-Disclosure Obligations

Approved By: [Redacted]

Drafted By: [Redacted]

Case ID #: [Redacted]

(U) [Redacted]

[Redacted]

[Redacted] - Victim;

[Redacted]

b3 -1
b6 -1,3,5
b7C -1,3,5
b7E -1,6

Synopsis: (U//~~FOUO~~) [Redacted]
Non-Disclosure Obligations form signed by SAC, [Redacted]
[Redacted] and [Redacted]

◆◆

UNCLASSIFIED//~~FOUO~~



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535-0001

June 7, 2016

[Redacted]

b3 -1
b7E -1

Re: [Redacted] & Non-Disclosure Obligations

~~LAW ENFORCEMENT SENSITIVE (LES)~~ The information in this document is the property of the Federal Bureau of Investigation (FBI). It may be distributed within the Federal Government (and its contractors), to U.S. intelligence, law enforcement, public safety or protection officials and individuals with a need to know only if authorized by the FBI. Precautions should be taken to ensure this information is stored and/or destroyed in a manner that precludes unauthorized access. Information bearing the LES caveat may not be used in legal proceedings without first receiving authorization from the FBI. Recipients are prohibited from subsequently posting the information marked LES on a website on an unclassified network.

Dear [Redacted]

b3 -1
b7E -1,3

We have received a request from the [Redacted] for [Redacted] specifically use of a [Redacted]. The type of support requested is considered Law Enforcement Sensitive/Classified and therefore consistent with FBI policy governing these technologies and the provision of [Redacted] approval is contingent on both the [Redacted] and the [Redacted] of the jurisdiction concerned, executing this non-disclosure agreement.

Disclosing the existence of and the capabilities provided by such equipment/technology to the public would reveal sensitive technological capabilities possessed by the law enforcement community and may, among other things, allow individuals who are the subject of investigation wherein this equipment/technology is used to employ countermeasures to avoid detection by law enforcement. This would not only potentially endanger the lives and physical safety of law enforcement officers and other individuals, but also adversely impact criminal and national security investigations. Disclosure of this information could degrade the FBI's ability to protect the public from terrorism and other

criminal activity because, through public disclosures, this technology could be rendered essentially useless for future investigations. In order to ensure that such equipment/technology continues to be available for use by the law enforcement community, the equipment/technology and any information related to its functions, operation, and use shall be protected from potential compromise by precluding disclosure of this information to the public in any manner including, but not limited to: in press releases, in court documents, during judicial hearings, or during other public forums or proceedings. Accordingly, the [redacted] [redacted] and [redacted] agree to the following conditions in connection with its acceptance of the technical assistance requested:

b3 -1
b7E -1

1. By entering into this agreement, the [redacted] and [redacted] [redacted] affirm that they have statutory authority to lawfully employ this technology and will do so only in support of public safety operations or criminal investigations
2. The [redacted] and [redacted] assume responsibility for operating the equipment/technology in accordance with both State and Federal law and regulation and accept sole liability for any violations thereof, irrespective of the Federal Bureau of Investigation approval, if any, for the provision of the equipment/technology. The Federal Bureau of Investigation will conduct physical operation of the equipment.
3. The [redacted] and [redacted] will ensure that operators of the equipment have met the operator training standards identified by the FBI and are certified to conduct operations.
4. The [redacted] and [redacted] will not distribute, disseminate, or otherwise disclose to the public, including to any non-law enforcement individuals or agencies, any information concerning the existence of the equipment/technology, and will not disclose any information relating to the equipment/technology, including, but not limited to any software, operating manuals, and/or related technical documentation (including its technical/engineering description(s) and capabilities).
5. The [redacted] and [redacted] will not distribute, disseminate, or otherwise disclose to any other law enforcement or government agency any information concerning the equipment/technology or any software, operating manuals, or related technical documentation (including its technical/engineering description(s) and capabilities) provided to [redacted] and [redacted] [redacted] without the prior written approval of the FBI.
6. Should the FBI give its prior written approval to distribute, disseminate, or disclose any information about the technology/equipment provided or any software, manuals, or related technical documentation, [redacted] and [redacted]

b3 -1
b7E -1

b3 -1
b7E -1

b3 -1
b7E -1

[redacted] agree to ensure that all materials shall be marked
"UNCLASSIFIED//LAW ENFORCEMENT SENSITIVE//FOUO//ORCON - Not to be
Disclosed Outside of the [redacted] and [redacted]
[redacted]

b3 -1
b7E -1

7. The [redacted] and [redacted] shall not, in any administrative, civil or criminal proceeding, use or provide any information concerning equipment/technology, its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities) beyond the evidentiary results obtained through the use of the equipment/technology including, but not limited to, during pre-trial matters, in search warrants and related affidavits, in discovery, in response to court ordered disclosure, in other affidavits, in grand jury hearings, in the State's case-in-chief, rebuttal, or on appeal, or in testimony in any phase of administrative proceeding or civil or criminal trial, without the prior written approval of the FBI; except where in-camera proceedings are necessary to obtain court approval to use equipment and maintain secrecy regarding protected information.

8. If the [redacted] or [redacted] learns that a District Attorney, prosecutor, or a court is considering or intends to use or provide any information concerning the equipment/technology, its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities) beyond the evidentiary results obtained through the use of the equipment/technology in a manner that will cause law enforcement sensitive information relating to the technology to be made known to the Court or the public, the [redacted] [redacted] or [redacted] will immediately notify the FBI in order to allow sufficient time for the FBI to intervene to protect the equipment/technology and information from disclosure and potential compromise.

b3 -1
b7E -1

Notification shall be directed to the attention of:

[redacted]
Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A Quantico,
Virginia 22135
[redacted]

b6 -1
b7C -1
b7E -2

9. In addition, the [redacted] and [redacted] [redacted] will, at the request of the FBI, seek dismissal of the case in lieu of using or providing, or allowing others to use or provide, any information concerning the equipment/technology, its associated software, operating manuals, and any related documentation (beyond the evidentiary results obtained through the use of the equipment/technology), if using or providing such information would potentially or actually compromise the equipment/technology. This determination of impact on the equipment/technology is in the sole discretion of the FBI.

b3 -1
b7E -1

10. A copy of any court order in any proceeding in which the [redacted] [redacted] or [redacted] is a party directing disclosure of information concerning the equipment/technology and any associated software, operating manuals, or related documentation (including its technical/engineering description(s) and capabilities) will immediately be provided to the FBI in order to allow sufficient time for the FBI to intervene to protect the equipment/technology and information from disclosure and potential compromise. Any such court orders shall be directed to the attention of:

b3 -1
b7E -1

[redacted]
Operational Technology Division
Federal Bureau of Investigation
Engineering Research Facility
Building 27958A, Pod A Quantico,
Virginia 22135

b6 -1
b7C -1
b7E -2

11. Neither the [redacted] nor the [redacted] [redacted] will publicize the use of the equipment/technology or any of the capabilities afforded by such equipment/technology to the public, other law enforcement agencies, or other government agencies, including, but not limited to, in any news or press releases, interviews, or direct or indirect statements to the media.

b3 -1
b7E -1

12. Access to these materials within the [redacted] nor the [redacted] [redacted] is to be restricted solely to employees who have both a strict need to know and that are actively working the investigation or incident for which the technical assistance was requested. The FBI reserves the right to approve any individuals who require access to the information and to require these individuals to execute individual non-disclosure agreements.

13. In the event that the [redacted] or [redacted] [redacted] receives a request pursuant to the Freedom of Information Act (5 U.S.C. § 552) or an equivalent state or local law, the civil or criminal discovery process, or other judicial, legislative, or administrative process, to disclose information concerning the equipment/technology, its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities), the [redacted] [redacted] or [redacted] will immediately notify the FBI of any such request telephonically and in writing in order to allow sufficient time for the FBI to seek to prevent disclosure through appropriate channels. Notification shall be directed to the attention of:

b3 -1
b7E -1

[redacted]
Operational Technology

b6 -1
b7C -1

Division Federal Bureau of
Investigation Engineering
Research Facility Building
27958A, Pod A Quantico,
Virginia 22135

[Redacted]

b3 -1
b7E -1,2

The [Redacted] and [Redacted] acceptance
of the above conditions shall be evidenced by the signatures below of authorized
representatives.

Sincerely,

[Redacted Signature]

b6 -1
b7C -1

Federal Bureau of Investigation

Acknowledged and agreed to this 7th day of June, 2016.

[Redacted]

b3 -1
b6 -2
b7C -2
b7E -1

[Redacted]

[Redacted]

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 21-cv-10719

Total Deleted Page(s) = 3
Page 1 ~ b5 - -1;
Page 2 ~ b5 - -1;
Page 3 ~ b5 - -1;

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X Deleted Page(s) X
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X For this Page X
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[redacted] (IMD) (CON)

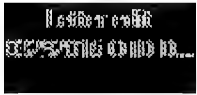
Sent: Thursday, March 31, 2016 10:07 AM
To: [redacted] (OTD) (FBI); [redacted] (OGC) (FBI); [redacted] (OTD) (FBI)
Cc: [redacted] (OTD) (FBI)
Subject: RE: [redacted]
UNCLASSIFIED//~~FOUO~~

b6 -1
b7C -1
b7E -1

Classification: UNCLASSIFIED//~~FOUO~~

See attached response that includes [redacted] and my input.

b6 -1
b7C -1



From: [redacted] (OTD) (FBI)
Sent: Wednesday, March 30, 2016 4:57 PM
To: [redacted] (OGC) (FBI); [redacted] (OTD) (FBI); [redacted] (OTD) (FBI)
Subject: FW: [redacted]
UNCLASSIFIED//~~FOUO~~

b6 -1
b7C -1
b7E -1

Classification: UNCLASSIFIED//~~FOUO~~

[redacted]

Please see [redacted] comments to the attached document.

b6 -1
b7C -1
b7E -2,3

[redacted]

Operational Technology Division

[redacted] (mobile)

From: [redacted] (OTD) (FBI)
Sent: Wednesday, March 30, 2016 3:53 PM
To: [redacted] (OTD) (FBI)
Cc: [redacted] (OTD) (FBI)
Subject: RE: [redacted] UNCLASSIFIED//~~FOUO~~

b6 -1
b7C -1
b7E -1

Classification: UNCLASSIFIED//~~FOUO~~

Please provide proposed comments and edits in attached document to [redacted] and [redacted] for comment and action prior to submission. I am okay with the remainder of the letter as written.

b6 -1
b7C -1
b7E -1

<< File: Letter edit [redacted] >>

Thank You,

From: [redacted] (OTD) (FBI)
Sent: Wednesday, March 30, 2016 9:49 AM
To: [redacted] (OTD) (FBI)
Subject: FW: [redacted]
UNCLASSIFIED//~~FOUO~~

b6 -1
b7C -1
b7E -1

Classification: UNCLASSIFIED//~~FOUO~~

Attached are the recommended changes to the letter for your final approval. The Branch has requested it back by COB today (Wednesday, March 30th)

From: [redacted] (OTD) (FBI)
Sent: Tuesday, March 29, 2016 3:37 PM
To: [redacted] (OTD) (FBI); [redacted] (OTD) (FBI); [redacted] (OTD) (FBI)
Cc: [redacted] (OTD) (FBI); [redacted] (OS) (FBI)
Subject: RE: [redacted] UNCLASSIFIED//~~FOUO~~

b6 -1
b7C -1
b7E -1

Classification: UNCLASSIFIED//~~FOUO~~

My recommended edit:

<< File: Letter ed [redacted] >>

From: [redacted] (OTD) (FBI)
Sent: Tuesday, March 29, 2016 12:22 PM
To: [redacted] (OTD) (FBI); [redacted] (OTD) (FBI); [redacted] (OTD) (FBI)
Cc: [redacted] (OTD) (FBI); [redacted] (OTD) (FBI)
Subject: FW: [redacted]
UNCLASSIFIED//~~FOUO~~

b6 -1
b7C -1
b7E -1,2

Classification: UNCLASSIFIED//~~FOUO~~

[Redacted]

b6 -1
b7C -1

[Redacted] look your response and placed it in a narrative letter format. Please respond to the comment in the letter as track changes or add your own comments directly in the letter.

[Redacted]

From: [Redacted] (DO) (FBI)
Sent: Tuesday, March 29, 2016 12:11 PM
To: [Redacted] (OTD) (FBI)
Cc: [Redacted]
Subject: FW: [Redacted]
UNCLASSIFIED//~~FOUO~~

b6 -1
b7C -1
b7E -1,2

Classification: UNCLASSIFIED//~~FOUO~~

H [Redacted]

Please see [Redacted] email/attachment below. Can you address the comment in the document, and I will reach out to [Redacted] to see how she wants to handle the sign-off.

Thank you!

[Redacted]

b6 -1
b7C -1
b7E -2,3

[Redacted]

From: [Redacted] (OCA) (FBI)
Sent: Tuesday, March 29, 2016 11:02 AM
To: [Redacted] (DO) (FBI)
Cc: [Redacted] (DO) (FBI); [Redacted] (DO) (FBI); [Redacted] (DO) (FBI)
Subject: RE: [Redacted] UNCLASSIFIED//~~FOUO~~

b6 -1
b7C -1
b7E -1

Classification: UNCLASSIFIED//~~FOUO~~

b6 -1
b7C -1

<< File: Letter.docx >>

[Redacted] -- much thanks [Redacted] in our office took the STB content and put it in a narrative letter form -- see attached. I've got two questions -- one substantive and one process. On the substantive issue, see comment reflected within -- I'm a little worried that the # lacks context. Is it possible to provide any additional detail? We also need to have DOJ review quickly before we finalize this -- so let me know what you think. On the process issue -- typically, these would be signed out at the AD or EAD level of the stakeholder division. Has there been any discussion of who will sign? My thought would be [Redacted] but happy to discuss. [Redacted] can deliver the signed letter once it's finalized.

From: [redacted] (DO) (FBI)
Sent: Wednesday, March 23, 2016 8:19 AM
To: [redacted] (OCA) (FBI)
Cc: [redacted] (DO) (FBI)
Subject: FW: [redacted]
UNCLASSIFIED//~~FOUO~~

b6 -1
b7C -1
b7E -1

Classification: UNCLASSIFIED//~~FOUO~~
=====

Good morning, [redacted]

Attached is the STB response to the [redacted]. Please let us know if you have any questions.

b6 -1
b7C -1
b7E -1,2,3

Thank you

[redacted]

From: [redacted]
Sent: Monday, March 21, 2016 10:56 AM
To: [redacted] (DO) (FBI); [redacted] (DO) (FBI)
Cc: [redacted] (OTD) (FBI); [redacted]
Subject: FW: [redacted]
UNCLASSIFIED//~~FOUO~~

b6 -1
b7C -1
b7E -1,2

Classification: UNCLASSIFIED//~~FOUO~~
=====

STB,

Here is the final version without the tracked changes.

<< File: [redacted]

b6 -1
b7C -1
b7E -1

Thank you

[redacted] (ESU/OTD)

From: [redacted] (OTD) (FBI)
Sent: Friday, March 18, 2016 4:18 PM
To: [redacted] (OGC) (FBI); [redacted] (OTD) (FBI); [redacted] (OTD) (FBI)

Cc: [redacted] (OTD) (FBI); [redacted] (DO) (FBI); [redacted]
Subject: RE: [redacted] --- UNCLASSIFIED//~~FOUO~~

Classification: UNCLASSIFIED//~~FOUO~~

Thanks [redacted] you can accept the edits, it's good to go.

From: [redacted] (OGC) (FBI)
Sent: Friday, March 18, 2016 4:10 PM
To: [redacted] (OTD) (FBI); [redacted] (OTD) (FBI); [redacted] (OTD) (FBI)
Cc: [redacted] (OTD) (FBI); [redacted] (DO) (FBI); [redacted]
Subject: RE: [redacted] -- UNCLASSIFIED//~~FOUO~~

Classification: UNCLASSIFIED//~~FOUO~~

Here are the citations.

- [redacted]
- [redacted]
- O [redacted]
- BB [redacted]
- E-Mail (U [redacted])
- E-Mail (S [redacted])

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Classification: UNCLASSIFIED//~~FOUO~~

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Classification: UNCLASSIFIED//~~FOUO~~

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Classification: UNCLASSIFIED//~~FOUO~~

Respectfully,



IMD/RIDS/IPOU
170 Marcel Drive
Winchester, VA 22602

b6 -1
b7C -1